accession 2 3 9 1 3

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1888.

No. 343.

THE WISCONSIN CENTRAL RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

PRICE COUNTY, AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF WISCONSIN.

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1 United States of America to the Honorable Orsamus Cole, as chief justice of the supreme court of the State of Wisconsin:

The petition of the Wisconsin Central Railroad Company, a corporation duly organized and existing under the laws of the State of Wisconsin, respectfully shows—

That on the first day of December, A. D. 1885, the supreme court of the State of Wisconsin rendered a final judgment against your petitioner in a certain cause wherein The Wisconsin Central Railroad Company was plaintiff and Price County, a duly organized municipal corporation in said State, and the County Clerk and County Treasurer of said Price county were defendants, reversing the judgment of the circuit court of said Price county setting aside the taxes on the lands described in the plaintiff's complaint and holding that said taxes were valid and a lien on said lands, and remanding the cause to said circuit court of Price county with directions to dismiss the complaint, as will appear by reference to the record and proceedings in said cause, and that said court is the highest court of said State in which a decision in said suit could be had; and your petitioner claims the right to remove said judgment to the Supreme Court of the United States by writ of error under section 709 of the Revised Statutes of the United States—

Because in said suit your petitioner claimed the right, privilege, and immunity of the lands embraced in said suit from taxation under the Constitution and statutes of the United States, and the decision therein was against the said right, privilege, and immunity specially set up and claimed by your petitioner under said Constitution and statutes of the United States; and

2 Because in said suit your petitioner claimed that it had not under the acts of Congress such title to said lands at the time said taxes were assessed thereon as rendered them subject to taxation by the State, and the decision therein was against said claim so specially set up and claimed by your petitioner; and

Because in said suit your petitioner claimed that under the acts of Congress of the United States it had no taxable title to the lands upon which said taxes in said suit were assessed, and that title to said lands was at the time said taxes were assessed in the United States, and that said lands were not subject to taxation by the State or its municipal authorities, and the decision therein was against said claim so specially set up and claimed by your petitioner; and

Because in said suit your petitioner claimed that as no letters patent of the United States had been issued to it for the lands upon which the taxes embraced in said suit were assessed at the time of said assessment, — had, under the acts of Congress of the United States, no such title to such lands as rendered them subject to taxation, and the decision therein was against said claim so specially set up and claimed by your petitioner; and

Because in said suit your petitioner claimed that the assessment and taxation of said lands at the time when they were so assessed was an unlawful interference with the primary disposal of the public domain under the Constitution of the United States, and the de-

cision therein was against said claim so specially set up and claimed by your petitioner; and

Because in said suit your petitioner claimed that the lands embraced in said suit were not subject to taxation because the selection of said lands had never been approved by the Secretary of the
3 Interior, as required by the act of Congress granting said lands to the State of Wisconsin, and the decision therein was against said claim so specially set up and claimed by your petitioner; and

Because in said suit your petitioner claimed that the lands embraced in said suit were not subject to taxation for the reason that said lands had never been in any manner identified as lands to which said land grant attached, and the decision therein was against said claim so specially set up and claimed by your petitioner.

All of which appear in the record and proceedings in said cause, and manifest error hath happened to the great damage of your said petitioner.

Wherefore your petitioner prays the allowance of a writ of error returnable into the Supreme Court of the United States, and for citation, supersedeas, and such other process as may cause the same to be corrected by said Supreme Court of the United States.

Dated this twenty-sixth day of December, A. D. 1885.

WISCONSIN CENTRAL RAILROAD COMPANY,
By T. L. KENNAN, *Its Attorney.*

T. L. KENNAN,
Attorney for Petitioner.

The writ of error and citation allowed as prayed this 28th day of December, 1885.

ORSAMUS COLE,
Chief Justice of the Supreme Court of the State of Wisconsin.

4 [Endorsed:] United States of America Supreme Court. The Wisconsin Central Railroad Company, pl'ff in error, *vs.* Price County *et al.*, def'ts in error. Petition for writ of error. Original pet. T. L. Kennan, attorney for petitioner, Milwaukee, Wisconsin.

5 In Supreme Court, State of Wisconsin.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff and Respondent,
against
PRICE COUNTY, THE COUNTY CLERK OF PRICE COUNTY, AND THE COUNTY TREASURER OF PRICE COUNTY, Defendants and Appellants.

Know all men by these presents that we, the Wisconsin Central Railroad Company, as principal, and Robert W. Maguire and James Barker, each of the city and county of Milwaukee and State of Wisconsin, are held and firmly bound unto Price County, the County Clerk of Price County, and the County Treasurer of Price County in the full and just sum of two thousand dollars, lawful money of the United States; for the payment of which sum, well and truly to be made to said obligees or to their successors or assigns, we bind our-

selves and our heirs, executors, administrators, and successors, jointly and severally, by these presents.

Sealed with our seals. Dated the twenty-sixth day of December, A. D. eighteen hundred and eighty-five.

5½ Whereas lately, at the circuit court held in and for Price county, in a suit arising in said court between The Wisconsin Central Railroad Company, plaintiff, and Price County and the County Clerk of Price County and the County Treasurer of Price County, defendants, judgment was rendered against the said defendants and in favor of said Wisconsin Central Railroad Company, plaintiffs; and

Whereas the said defendants did take an appeal from said decision of the circuit court to the supreme court of the State of Wisconsin; and

Whereas the supreme court of the State of Wisconsin did, on the first day of December, A. D. 1885, render a final decision in said suit whereby it reversed the decision of said circuit court of Price county and ordered the said suit to be remitted to the circuit court for Price county, with directions to dismiss the complaint therein; and the said Wisconsin Central Railroad Company having obtained a writ of error issued out of the Supreme Court of the United States and filed a copy thereof in the clerk's office of said supreme court of the State of Wisconsin to reverse the said judgment in the aforesaid suit, and a citation, directed to the said Price

6 County and the County Clerk and County Treasurer of Price County, citing and admonishing them to be and appear at the Supreme Court of the United States to be holden at Washington on the second Monday of October, A. D. 1886:

Now, the condition of the above obligation is such that if the said Wisconsin Central Railroad Company shall prosecute said writ of error to effect and answer all damages and costs if it fail to make good its plea, then the above obligation to be void; else to remain in full force and virtue.

WISCONSIN CENTRAL RAILROAD COMPANY,
By T. L. KENNAN, *Its Attorney.*
R. W. MAGUIRE. [SEAL.]
J. BARKER. [SEAL.]

In presence of—
HUGH RYAN.
HOWARD MORRIS.

STATE OF WISCONSIN, } ss:
County of Milwaukee, }

Robert W. Maguire, one of the subscribers to the foregoing bond, being duly sworn, says that he is worth two thousand dollars over and above all his debts and liabilities in property situated

7 within the State of Wisconsin and not exempt by law from execution.

R. W. MAGUIRE.

Subscribed and sworn to before me this 26th day of December, A. D. 1885.

HUGH RYAN,
United States Commissioner, Eastern District of Wisconsin.

STATE OF WISCONSIN, *County of Milwaukee,* } ss:

James Barker, one of the subscribers to the foregoing bond, being duly sworn, says that he is worth two thousand dollars over and above all his debts and liabilities in property situated in the State of Wisconsin and not exempt by law from execution.

J. BARKER.

Subscribed and sworn to before me this 26th day of December, A. D. 1885.

HUGH RYAN,
United States Commissioner, Eastern District of Wisconsin.

UNITED STATES OF AMERICA, *State of Wisconsin:*

Seventh Judicial Circuit.

The foregoing bond is hereby approved by me both as to
8 form and sufficiency, and the writ of error herein shall operate as a supersedeas on its being filed with the clerk of the supreme court of the State of Wisconsin and proper service thereof upon the defendants in error as required by law.

Given under my hand this 28th day of December, A. D. 1885.

ORSAMUS COLE,
Chief Justice of the Supreme Court of the State of Wisconsin.

[Endorsed:] Copy of bond.
[Stamped:] Filed Dec. 28, '85. Clarence Kellogg, clerk sup. c't, Wis.

9 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the justices of the supreme court of the State of Wisconsin, Greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said supreme court of the State of Wisconsin, before you, between the Wisconsin Central Railroad Company, plaintiff, and Price County and the County Clerk and County Treasurer of Price County, defendants, a manifest error hath happened, to the great damage of the said Wisconsin Central Railroad Company, as by the complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next in the Supreme Court to be then and there held, that, the record and pro-

ceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 28th day of December, in the year of our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and tenth.

[Seal U. S. Circuit Court, Western Dist. of Wisconsin.]

F. M. STEWART,
Clerk of the U. S. Circuit Court for the Western District of Wisconsin.

T. L. KENNAN,
Attorney for Pl'ff in Error.

[Stamped:] Filed Dec. 28, '85. Clarence Kellogg, clerk sup' c't, Wis.

10 UNITED STATES OF AMERICA, *ss:*

To Price county, the county clerk, and county treasurer of Price county, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday in Octobor in the year 1886, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Wisconsin, wherein The Wisconsin Central Railroad Company is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Orsamus Cole, chief justice of the supreme court of the State of Wisconsin, this 28th day of December, in the year of our Lord one thousand eight hundred and eighty-five.

[Seal Supreme Court of Wisconsin.]

ORSAMUS COLE,
Chief Justice of the Supreme Court of the State of Wisconsin.

10½ Original petition for writ of error, with allowance thereof, bond and supercedeas, with approval, citation, and writ of error filed with me, and true copies thereof deposited for defendants, and due service admitted this 28th day of December, A. D. 1885.

CLARENCE KELLOGG,
Clerk Supreme Court Wisconsin.

11 *Affidavit of Service.*

UNITED STATES OF AMERICA:

United States Supreme Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff in Error,
vs.
PRICE COUNTY, THE COUNTY CLERK, AND COUNTY TREASURER OF PRICE COUNTY, Defendants in Error.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

K. K. Kennan, of the city and county of Milwaukee, being duly sworn, saith that on the 31st day of December, A. D. 1885, at the village of Phillips, in the county of Price and State of Wisconsin, he duly and personally served on the above-named defendants in error true copies of the petition for a writ of error, with a copy of the allowance thereof by Chief Justice Cole endorsed thereon, the bond with the approval of Chief Justice Cole endorsed thereon, together with a copy of the writ of error and of the citation hereto attached, by delivering to and leaving with each of said defendants in error personally true copies thereof, and also by delivering to and leaving with Willis Hand, the attorney for said defendants in error, true copies thereof.

This affiant further says that he knows the persons so served by him to be the identical persons mentioned as defendants in error and as the attorney for said defendants in error.

K. K. KENNAN.

Subscribed and sworn to before me this 2d day of January, A. D. 1886.

[Seal Wm. Shimwell, Notary Public, Milwaukee County, Wis.]

WM. SHIMWELL,
Notary Public, Milwaukee Co., Wis.

12 *Affidavit of Service.*

UNITED STATES OF AMERICA:

United States Supreme Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff in Error,
vs.
PRICE COUNTY, THE COUNTY CLERK, AND COUNTY TREASURER OF PRICE COUNTY, Defendants in Error.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

T. L. Kennan, of the city and county of Milwaukee, being duly sworn, saith that on the 28th day of December, A. D. 1885, at the city of Madison, in the State of Wisconsin, he served on the above-named defendants in error a copy of the petition for writ of error, together with the approval of Chief Justice Cole endorsed thereon allowing

the writ, and a copy of the bond duly approved by an endorsement thereon by Chief Justice Cole, and a copy of the writ of error and of the citation in the above-entitled cause, by leaving said copies of said papers for said defendants in error in the clerk's office of the supreme court of the State of Wisconsin.

T. L. KENNAN.

Subscribed and sworn to before me this 2d day of January, A. D. 1886.

[Seal Wm. Shimwell, Notary Public, Milwaukee County, Wis.]

W. SHIMWELL,
Notary Public, Milwaukee County, Wisconsin.

13 Pleas before the supreme court of the State of Wisconsin at a term thereof begun and held, at the capital, in Madison, the seat of government of said State, on the second Tuesday, to wit, the eleventh day, of August, A. D. 1885.

Present: Orsamus Cole, chief justice; William P. Lyon, David Taylor, Harlow S. Orton, and John B. Cassoday, associate justices; Clarence Kellogg, clerk.

Be it remembered that heretofore, to wit, on the 17th day of July, in the year of our Lord one thousand eight hundred and eighty-five, came into the office of the clerk of the supreme court of the State of Wisconsin, by its attorneys, the County of Price and the County Clerk and County Treasurer of Price County, and filed in said court its certain notice of appeal and undertaking, according to the statute in such case made aud provided, and also the return to such
14 appeal of the clerk of the circuit court of Price county, in said State, in the words and figures following—that is to say:

Notice of Appeal.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff & Respondent,
vs.
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Def'ts & Appellants.

To E. H. Abbot, attorney for plaintiff, and N. F. Norlin, clerk of the aforesaid court:

Please take notice, that the defendants appeal from the judgment rendered by the above-named court herein, entered on the ninth day of April, A. D. 1885, in favor of the plaintiff and against the defendants, and from the whole and every part thereof; such judgment is a judgment setting aside the taxes for the year 1883 on the lands described in the complaint herein, and restraining the defendants from collecting any part thereof, and for costs.

Yours, etc.,

WILLIS HAND,
M. BARRY, &
A. R. MEAD,
Attorneys for Defendants.

15 (Endorsements:) Personal service of the within notice by copy admitted this — day of July, 1885. N. F. Norlin, clerk circuit court for Price county. Personal service of the within notice by copy admitted this 10th day of July, 1885. E. H. Abbot, per K., pl'ff's att'y. Filed July 13th, 1885. N. F. Norlin, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

(*Record.*)

STATE OF WISCONSIN, } ss:
County of Price, }

WISC. CENTRAL R. R. CO. *vs.* PRICE CO. *et al.*

I, N. F. Norlin, clerk of the circuit court of the county of Price, in the State of Wisconsin, the said court being a court of record, do hereby certify that the annexed roll papers are all and the original papers filed in my office in the above-entitled action, and that the same are hereby transmitted to the clerk of the supreme court, at Madison, Wis., in pursuance of an appeal therein.

In witness whereof I have hereunto set my hand and affixed the seal of said circuit court, at Phillips, in said county and State, this 15th day of July, A. D. 188–.

[SEAL.]

N. F. NORLIN,
Clerk of Cir. C't.

16 (Endorsement:) Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

Clerk's Bill of Costs.

Entering on court record	
Filing 40 papers	4 00
Issuing subpœnas, filled out	
" " not filled out	
Entering action, times on term cal.	
" demurrer	
" forfeiture or discharge of bond	
" plea	
" return of execution	
" motions and orders	
" verdict	
Taxing costs	25
	4 25
Postage	
Certifying papers on change of venue	
" " on appeal to supreme c't	
Indexing, direct and inverse	
Issuing and sealing writs	
1 certificate	25
Affidavit	
Drawing and swearing jury	
Swearing officer to take charge of jury	

Swearing witnesses, @ 10c.	
" others, @ 25c.	
Certifying paper to supreme C.	2 00
Recording fol.	
Judgment—docketing, $1.00; satisfying, 25c.	
Making commission to take deposition	
" commitment of prisoner	
" up judgment roll	50
" — cop., — folios	
Total	$7 00

Dated Phillips, Wisconsin, July 15th, 1885.

N. F. NORLIN, *Clerk.*

Clerk's Bill of Costs. 10 80

Entering on court record	50
Filing 90 papers	9 00
Issuing 2 subpœnas, filled out	50
" " not filled out	
Entering action 1 time on term cal.	10
17 Entering demurrer	
" forfeiture or discharge of bond	
Entering plea	
" return of execution	
" 3 motions and orders	45
" verdict	
Taxing costs	25
	10 80
Postage	
Certifying papers on change of venue	
" " on appeal to supreme c't	
Indexing, direct and inverse	10
Issuing and sealing writs	
certificates	
affidavit	
Drawing and swearing jury	
Swearing officer to take charge of jury	
" witnesses, @ 10c.	
" others, @ 25c.	
Recording judg. & findings, 147 fol.	14 70
Judgment—docketing, $1.00; satisfying, 25c.	1 00
Making commission to take deposition	
" commitment of prisoner	
" up judgment roll	50
" — cop., — folios	
Total	$27 10

Dated Phillips, Wisconsin, April 9th, 1885.

N. F. NORLIN, *Clerk.*

STATE OF WISCONSIN, } ss:
County of Price, }

In Circuit Court.

The State of Wisconsin to A. B. McDonell:

You are hereby commanded that, laying aside all and singular your business and excuses, you appear before the judge of the circuit court for the said county, at the court-house in the village of Phillips, on Wednesday the 28th day of January, 1885, at 2 o'clock p. m., to give evidence in a case then and there to be tried between Wisconsin Central R. R. Co., plaintiff, and Price Co. *et al.*, defendants, on the part of the defendants. Hereof fail not on the penalty that will fall thereof.

Witness the Hon. C. M. Webb, judge seventh judicial circuit.

Given under my hand and the seal of the circuit court for said county this 16th day of Jan., A. D. 1885.

[SEAL.] N. F. NORLIN, *Clerk.*

18 Endorsements.

SHERIFF'S OFFICE, } ss:
Chippewa County, }

I hereby certify and return that at the city of Chippewa Falls, in said county, on the 24th day of January, 1885, I duly served the within subpœna upon the within-named A. B. McDonald personally by reading & exhibiting the same to him & by paying to him the sum of $8.10 for going to & returning from the place designated in said subpœna & for one day's attendance thereat.

JOHN WERNER, *Sheriff.*

Filed February 18th, 1885.

N. F. NOLIN,
Clerk Cir. C't.

Filed Jul. 17, 1885.

CLARENCE KELLOGG,
Clerk Sup. C't, Wis.

STATE OF WISCONSIN, } ss:
County of Price, }

In Circuit Court.

The State of Wisconsin to Edward Rutledge:

You are hereby commanded that, laying aside all and singular your business and excuses, you appear before the judge of the circuit court for the said county, at the court-house in the village of Phillips, on Wednesday, the 28th day of January, 1885, at two o'clock p. m., to give evidence in a case then and there to be tried between Wisconsin Central Railroad Co., plaintiff, and Price County *et al.*, defendant-, on the part of the defendants. Hereof fail not on the penalty that will fall thereof.

Witness the Hon. Chas. M. Webb, judge seventh judicial circuit
Given under my hand and the seal of the circuit court of
19 said county this 16th day of January, A. D. 1885.
[SEAL.] N. F. NORLIN, *Clerk.*

(Endorsements:) I hereby certify that I personally served by reading the within summons to the within-named Edward Rutlege on the 16 day of January, 1885, and paid him mileage and 1 day's attendance, the sum of 8.04. C. B. Nelson. Filed Feb. 18th, 1885. N. F. Norlin, clerk. Filed Jul. 17th, 1885. Clarence Kellogg.

Fees:

Travel	.20
Service	.25
Return	.12
	.57

STATE OF WISCONSIN, } ss:
County of Price, }

WIS. CENT. R. R. Co. }
vs. } No. 6.
PRICE CO. *et. al.* }

I, N. F. Norlin, clerk of the circuit court of the county of Price, in the State of Wisconsin, the said court being a court of record, do hereby certify that the annexed roll of papers are the original papers, to wit, Exhibits A, B, C, D, E, F, H and depositions of C. M. Foresman, S. J. Rusk, & E. B. Sanders, filed in my office in the above-entitled action, and that the same are hereby transmitted to the clerk of the circuit court of the county of Marathon, in pursuance of request of defendants' attorneys.

In witness whereof I have hereunto set my hand and affixed the seal of said circuit court, at Phillips, in said county and State, this 17 day of M'ch, A. D. 1885.

[SEAL.] N. F. NORLIN,
Clerk of Cir. C't.

(Endorsements:) Filed M'ch 19, 1885. N. F. Norlin, clerk cir. c't Filed Jul. 17, 1885. Clarence Kellogg, cl'k sup. c't.

20 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Def't.

At a general term of said court, begun and held at the court-house, in the village of Phillips, in said county, on the 27th day of January, 1885, it appearing that A. R. Mead, Esq., of Fifield, Wis., is district attorney of said Price county, and that M. Barry, Esq., of Phillips, has been employed by defendants in the above-entitled case, now, on motion of Willis Hand, defendants' attorney—

Ordered, That M. Barry and A. R. Mead be, and they are hereby, made associate counsel and attorneys of record in said cause, with post-office address at Phillips, Price county, Wis.

By the court:

CHAS. M. WEBB, *Judge*.

Dated Feb. 4, 1885.

(Endorsements:) Served by mail Feb. 24, 1885, at Stevens' Point, on E. H. Abbot, by A. R. Mead. Filed March 14th, 1885. N. F. Norlin, clerk cir. c't. Filed Jul. 19, 1885. Clarence Kellogg, clerk sup. c't. Willis Hand, M. Barry, & A. R. Mead, def'ts' att'ys.

21 *Bill of Costs. R. S.* 2921.

Circuit Court, Price County. January Term, 1885.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

Costs of—

Retainer	$3 00
Brief and copies	3 00
Draft summons, 2 folios at 25 cents each	50
Eng. 2, file 2, keep 2, serve 6, at 12 cents each	1 44
Draft complaint, 129 folios at 25 cents each	32 25
Eng. 129, file 129, keep 129, serve 387, at 12 cents each	92 88
Draft reply, — folios, at 25 cents each	
Eng. —, file —, keep —, serve —, at 12 cents each	
Draft injunctional orders, 4 folios at 25 cents each	1 00
Eng. 4, file 4, keep 4, serve 12, at 12 cents each	2 88
Draft undertaking for injunction, 4 folios @ 25c. each	1 00
Eng. 4, file 4, keep 4, serve 12, at 12c. each	2 88
Draft order to show cause, 3 folios @ 25c. each	75
Eng. 3, file 3, keep 3, serve 9, at 12c. each	2 16
Draft notice of trial, 2 folios at 25 cents each	50
Eng. 2, file 2, keep 2, serve 2, at 12 cents each	96
Attending trial, 2 days at $3 each	6 00
Attending judge out of term	
Arguing a —	
Drawing finding, 22 folios at 25 cents each	5 50
Eng. 22, file 22, keep 22, serve 22, at 12 cents each	10 56
Drawing judgment, 125 folios at 25 cents each	31 25
Eng. 125, file 125, keep 125, serve 500, at 12 cents each	105 00
Draft bill of costs, 4 folios at 25 cents each	1 00
Eng. 4, file 4, keep 4, serve 4, at 12 cents each	1 92
Draft affidavit of disbursements, 1 folio at 25 cents each	25
Eng. 1, file 1, keep 1, serve 1, at 12 cents each	48
Draft notice of taxation of costs, 1 folio at 25 cents each	25
Eng. 1, file 1, keep 1, serve 1, at 12 cents each	48
2 terms' term fees, at $2 each	4 00

1 motion, at 62½ cents each	62
Attendance before referee, — days at $3	
Attendance striking jury	
Examination of witnesses out of court	
Disbursements:	
State tax	1 00
— affidavits, at 25 cents each	
Sheriff's fees, service of summons	
Sheriff's fees, service of subpœnas	
Clerk's fees	27 10
Register's fees	
Postage	
Telegraphing	
Abstract	
Jury fee	
Commissioners' fees, Ryan, for taking deposition	10 74
Pl'ff- witness fees	3 00
	$354 35

The above costs and disbursements are hereby adjusted, taxed, and allowed this 9th day of April, A. D. 1885, at $354.35.

N. F. NOLIN, *Clerk.*

22 STATE OF WISCONSIN, *Milwaukee County,* } ss:

T. L. Kennan, being duly sworn, on oath says that he is one of the attorneys for the plaintiff in the within-entitled action and that the disbursements within mentioned have been made or *or* will necessarily be incurred in said action.

T. L. KENNAN.

Subscribed and sworn to before me this 3d day of April, A. D. 1885.

WM. SCHIMWELL,
Notary Public, Milwaukee Co., Wis.

STATE OF WISCONSIN, *Milwaukee County,* } ss:

T. L. Kennan, being duly sworn, on oath says that he is one of the attorneys for the plaintiff in the within-entitled action; that W. E. Wilbur was a witness on the part of the plaintiff in said action, and that said witness was necessarily in attendance on the trial of said action the number of days and resided at the place of trial of said action as hereinafter stated and set opposite his name, to wit:

W. E. Wilbur resides at Phillips, attended 2 days, and is entitled to $3.00.

—— —— resides at ——, attended — days and traveled — miles, and is entitled to $——.

—— —— resides at ——, attended — days and traveled — miles and is entitled to $——.
—— —— resides at ——, attended — days and traveled — miles, and is entitled to $——.
—— —— resides at ——, attended — days and traveled — miles, and is entitled to $——.
—— —— resides at ——, attended — days and traveled — miles, and is entitled to $——.
—— —— resides at ——, attended — days and traveled — miles, and is entitled to $——.

T. L. KENNAN.

Subscribed and sworn to before me this 3d day of April, A. D 1885.

WM. SCHIMWELL,
Notary Public, Milwaukee Co., Wis.

Filed July 17, 1885.

CLARENCE KELLOGG,
Clerk Sup. C't Wis.

To Willis Hand, M. Barry, & A. R. Mead, Esquires, attorneys for defendants:

Take notice that the within bill of costs and disbursements in the within-entitled action will be presented to the clerk of said court, at his office, in the village of Phillips, in the county of Price, on the 9th day of April, 1885, at 2 o'clock on the afternoon of that day, for adjustment, taxation, and allowance in the within-entitled action, and to have the amount thereof inserted in the judgment in said action.

Dated April 3d, A. D. 1885.

E. H. ABBOT,
Attorney for Plaintiff.

Due service of within by copy admitted this 4th day of April, 1885.

WILLIS HAND,
M. BARRY, &
A. R. MEAD,
Att'ys for Def'ts.

23 Circuit Court, Price County.

THE WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Def'ts.

And now comes the defendants, by their attorney, Willis Hand, and for answer to the plaintiff's complaint herein respectfully alleges:

Defendants admit that plaintiff is a corporation organized under and by virtue of the laws of the State of Wisconsin and empowered to acquire and hold real and personal property.

Defendants admit that plaintiff was the owner in fee of the lands described in its complaint on February 25th, 1884, and at the time of the commencement of this action, and that said lands are situated in the town of Worcester, Price county, Wisconsin; that all of said lands are a portion of the lands earned by and granted to the plaintiff for the purpose of aiding in the construction of its railroad.

Defendants allege on information and belief that all of the lands described in the plaintiff's complaint were, by chapter 80 of the laws of Congress for the year 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State
24 of Wisconsin," approved May 5th, 1864, granted to the State of Wisconsin for the purpose of aiding in the construction of the railroad now owned by the plaintiff; that by chapters 314 and 362 of the private and local laws of the State of Wisconsin for the year 1866, the former entitled "An act to incorporate the Winnebago and Lake Superior Railroad Company and to execute the trust created by section 3 of the act of Congress entitled 'An act granting lands to aid in the construction of certain railroads in the State of Wisconsin, approved May 5th, 1864,'" which act was approved April 6th, 1866, and the latter entitled "An act to incorporate the Portage and Superior Railroad Company and to execute the trust created by an act of Congress entitled 'An act granting lands to aid in the construction of certain railroads in the State of Wisconsin,'" approved April 9th, 1866, and each of which was published so as to take effect in May, 1866, and also by two several acts of the Legislature of the State of Wisconsin for the years 1869 and 1871, the first of which is entitled "An act to authorize the Portage and Lake Superior Railroad Company to consolidate with the Winnebago and Lake Superior Railroad Company under the name of the Portage, Winnebago and Lake Superior Railroad Company," approved March 6th, 1869, and duly published so as to take effect April 29th, 1869, and the sec-
25 ond of which is entitled "An act to change the name of the Portage, Winnebago and Lake Superior Railroad Company," approved February 4th, 1871, published so as to take effect February 4th, 1871, all of the lands described in the plaintiff's complaint were granted by the State of Wisconsin to the plaintiff under the name of "The Wisconsin Central Railroad Company." Defendants further allege that under and by virtue of the act of Congress and the several acts of the Legislature of Wisconsin hereinbefore mentioned the said lands were granted to said plaintiff absolutely, subject only to the conditions in said acts prescribed, which conditions are hereby specifically referred to, and that by the terms thereof said plaintiff was to become entitled to said lands absolutely on the completion of its railroad through that part of Wisconsin now in Price county, and contiguous to which road said lands lie, and due proof of such completion of said road made and presented to the proper authorities at Washington, D. C., as prescribed in said acts. Defendants further allege that prior to January 1st, 1880, the plaintiff had caused all of its said road to be constructed according to the requirements of said act of Congress and said several acts of the Legislature of Wisconsin from Stevens' Point, Wisconsin, to Ashland, Wisconsin,

and particularly through that territory now comprised in Price county and embracing the lands described in the plaintiff's
26 complaint; and defendants say on information and belief that on said January 1st, 1880, said plaintiff had performed every act on its part to be performed and complied with every condition on its part to be complied with in order to earn all of the lands described in its complaint herein, and that at that date and at the time said lands were assessed for taxation in the year 1883 and the taxes thereon levied of which the plaintiff complains in this action there remained no act or condition to be performed by said plaintiff in order for it to obtain a perfect title in fee simple of all of said lands; that, in fact, at the dates mentioned the equitable title to said lands was absolutely vested in the plaintiff.

Defendants admit that all the lands described in the plaintiff's complaint were assessed for taxes in the year 1883 and taxes levied thereon for that year.

Defendants further allege on information and belief that the assessment of all property in the said town of Worcester for the year 1883 was made by three assessors duly elected or appointed as such, who, before entering upon the duties of their offices, duly qualified according to law; that such assessment was made by said assessors jointly, and no valuation of any property placed in the assessment roll for that year was fixed without the concur-
27 rence of all of said assessors acting together.

Defendants further allege that the sum of twenty-three hundred dollars ($2,300) as a school tax was levied in said town of Worcester at the annual town meeting of said town held April 3d, 1883; that prior to the voting of said school tax the school board of directors of said town presented to the town board of said town a statement and estimate in writing showing, 1, the amount necessary for the support of schools during the year; 2, specifying the sum needed for teachers' wages; 3, the amount for school-house sites and for building, hiring, or purchasing school-houses; 4, the amount needed for fuel; 5, the amount for incidental expenses, including repairs, maps, globes, charts, and for all needful school-room appurtenances; that at said annual town meeting said town board presented said itemized statement to the electors there present, and, on motion, the amount so recommended to be levied was voted and levied in one sum by said electors for the purposes above mentioned, but no other school tax was levied in said town for the year 1883; that during all the year 1883 the township system of schools was in force in said town of Worcester.

Defendants further allege that at the annual town meeting, held Apr. 3d, 1883, in said town of Worcester, the voters there present duly levied a highway tax of two thousand dollars and then
28 and there passed a resolution that said highway tax should be collected in cash in the same manner and at the same time as other town taxes.

Defendants further allege that prior to the annual town meeting in said town, held Apr. 3d, 1883, the town board of said town adopted a resolution to employ and did employ a policeman or policemen,

and adopted by-laws and regulations in regard to their duties; that at said annual meeting the electors of said town there present duly voted and levied the sum of eight hundred dollars to pay for police service for that year; that no other highway tax and no other tax for the payment of police service in said town for the year 1883 was levied in said town during that year.

Wherefore the defendants pray the judgment of this court that the injunction obtained herein be dissolved and the plaintiff's complaint be dismissed with costs, and for such other or further relief as to the court may seem just.

WILLIS HAND,
Def'ts' Att'y.

STATE OF WISCONSIN, } ss:
Price County, }

F. W. Sackett, being duly sworn, on oath says that he is county clerk of Price county and one of the defendants in the foregoing action, and makes this verification on behalf of himself and
29 his codefendants; that he has heard said complaint read and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

F. W. SACKETT.

Subscribed & sworn to before me April 19th, 1884.
M. BARRY,
Cir. Court Commissioner, Price Co., Wis.

(Endorsements:) Answer. No. 6. Mailed Apr. 24, '84. 6 cts. Filed Jan. 28th. N. F. Norlin, clerk, by E. W. Hand, dep't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't. Willis Hand, def'ts' att'y.

Circuit Court, Winnebago County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ffs,
ag'st
PRICE COUNTY, THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, and JOHN COMSTOCK, Def'ts.

To E. H. Abbot, pl'ff's att'y:

Take notice that on 6th day of November, 1884, at ten o'clock a. m., before F. W. Hall, a notary public in and for the county
30 of Dane, at his office in the city of Madison, in said county, the depositions of C. M. Foresman & L. J. Rusk will be taken, to be used on the trial of the above-entitled cause on the part of the defendants. You are notified to be present at such time and place and put such questions as you shall deem best. The reason for taking such depositions is that said witnesses reside more than 30 miles from the place of the trial of said cause.

You will further take notice that such depositions will be used by defendants on the trial of the following actions, now pending in the

circuit court for Price county: Same plaintiff as above *vs.* Price County and the County Clerk and County Treasurer of Price County, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and P. S. Davidson, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and A. A. Paine.

Dated Oct. 28, 1884.

WILLIS HAND,
Att'y for Def'ts, Price Co. & Clerk & Treas. of Price Co.

(Endorsements:) Notice of taking depositions. Madison. Personal service of the within by copy admitted this 29th day of Oct., 1884. E. H. Abbot, pl'ff's att'y. Filed Jan 28th, 1885. N. F. Norlin, clerk, by E. W. Hand, dep'y. Filed Jul. 17, 1885. Clarence Kellogg, clerk cir. c't. Willis Hand, att'y for def'ts, Price Co. *et al.*

31 Circuit Court, Winnebago County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, and JOHN COMSTOCK, Def'ts.

To E. H. Abbott, pl'ff's att'y:

Take notice that on 14th day of November, 1884, at 9 o'clock a. m., before Alex. Craven, a notary public in and for the county of Marathon, at his office in the city of Wausau, in said county, the deposition of E. B. Sanders will be taken to be used on the trial of the above-entitled cause on the part of the defendants. You are notified to be present at such time and place and put such questions as you shall deem best. The reason for taking such deposition is that said witness resides more than 30 miles from the place of the trial of said cause.

You will further take notice that such deposition will be used by defendants on the trial of the following actions, now pending in the circuit court for Price county: Same plaintiff as above *vs.* Price County and the County Clerk and County Treasurer of Price County, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and P. S. Davidson, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and A. A. Paine.

Dated Oct. 28, 1884.

WILLIS HAND,
Att'y for Def't, Price Co. & Clerk & Treas. of Price Co.

32 (Endorsment:) Wausau. Personal service of the within notice by copy admitted this 29th day of Oct., 1884. E. H. Abbot, pl'ff's att'y. Filed Jan. 28th, 1885. N. F. Norlin, clerk, by E. W. Hand, dep't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't. Willis Hand, att'y for Price Co. *et al.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Def'ts.

It is hereby stipulated by and between the above-named parties that the depositions of the following-named persons at the times and places hereinafter stated may be taken to be used on the trial of the above-entitled cause on the part of the defendants, viz: C. M. Foresman and L. J. Rusk, at the office of F. W. Hall, notary public, in the city of Madison, Dane county, Wisconsin, Thursday, December 4th, 1884, at ten o'clock a. m.; E. B. Sanders, at the office of Alex. Craven, notary public, in the city of Wausau, Marathon county, Wis., on Friday, December 5th, 1884, at 4 o'clock p. m.; Alex. Meggett,
33 at the office of Chas. S. Roberts, a justice of the peace in the city of Eau Claire, in Eau Claire county, Wis., on Tuesday, December 9th, 1884, at nine o'clock a. m.

It is further stipulated that a copy of this stipulation shall be filed with each such officer before whom depositions are to be taken and returned with such depositions.

Dated Nov. 14th, 1884.

WILLIS HAND,
Def'ts' Att'y.
EDWIN H. ABBOT,
Att'y for Pl'ff.

(Endorsements:) Stipulation to take depositions. No. 6. Filed Jan. 28th, 1885. N. F. Norlin, clerk, by E. W. Hand, dep't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't. Willis Hand, def'ts' att'y.

Circuit Court, Winnebago County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, and JOHN COMSTOCK, Def'ts.

To E. H. Abbot, pl'ff's att'y:

Take notice that on 14th day of November, 1884, at 9 o'clock a. m., before Chas. F. Roberts, a justice of the peace in and for the county of Eau Claire, at his office, in the city of Eau Claire, *at his*
34 *office, in the city of Eau Claire,* in said county, the deposition of Alex. Meggett will be taken to be used on the trial of the above-entitled cause on the part of the defendants. You are notified to be present at such time and place and put such questions as you shall deem best. The reason for taking such deposition is that said witness resides more than 30 miles from the place of trial of said cause.

You will further take notice that such deposition will be used by defendants on the trial of the following actions, now pending in the

circuit court for Price county: Same plaintiff as above *vs.* Price County and the County Clerk and County Treasurer of Price County, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and P. S. Davidson, and same plaintiff *vs.* Price County and the County Clerk and County Treasurer of Price County and A. A. Paine.

Dated Oct. 28, 1884.

WILLIS HAND,
Att'y for Def'ts, Price Co. & Clerk & Treas. of Price Co.

(Endorsements:) Personal service of the within by copy admitted this 29th day of Oct., 1884. E. H. Abbot, pl'ff's att'y. Filed Jan. 28th, 1885. N. F. Norlin, clerk, by E. W. Hand, dep't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't. Willis Hand, att'y for def'ts, Price Co. *et al.*

35 [Endorsed:] Notice of trial. No. 6. (Form No. 141.) Circuit court, Price county. Wisconsin Central Railroad Company, plaintiff, *vs.* Price County *et al.*, defendants. Please take notice that the above-entitled action will be brought to trial and an inquest taken therein at the general term of the aforesaid court, to be held at the court-house in the village of Phillips, in the said county of Price, on the 27th day of January next, at the opening of court on that day, or as soon thereafter as counsel can be heard. Dec. 29th, 1884. Yours, &c., Edwin H. Abbot, pl'ff's att'y. To Willis Hand, att'y for def'ts. Service of a copy of above notice admitted this 1st day of Jan., 1885. Willis Hand, att'y for def'ts. Note of issue in the above-entitled cause. Edwin H. Abbot, pl'ff's att'y. —— ——, def'ts' att'y. Issue of fact for court. Joined April 25, 1884. Filed by pl'ff's attorney January 9th, 1885. N. F. Norlin, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

36 [Endorsed:] Original. Notice of trial. No. 6. (Form No. 141.) Circuit court, Price county. Wisconsin Central Railroad Company, plaintiff, *vs.* Price County and the County Clerk and County Treasurer of Price County, defendants. Please take notice that the above-entitled action will be brought to trial and an inquest taken therein at the general term of the aforesaid court, to be held at the court-house in the village of Phillips, in the said county of Price, on the 26th day of Aug. next, at the opening of court on that day, or as soon thereafter as counsel can be heard. Aug. 1, 1884. Yours, &c., Willis Hand, def'ts' att'y. To E. H. Abbot, att'y for pl'ff. Service of a copy of above notice admitted this 2d day of Aug., 1884. Edwin H. Abbot, att'y for pl'ff. Note of issue in the above-entitled cause. —— ——, pl'ff's att'y. —— ——, def'ts' att'y. Issue of fact for court. Joined Apr. 24, 1884. Filed by Willis Hand, attorney, August 26th, 1884. Charles H. Darlington, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

37 Circuit Court, Price County.

THE WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Def'ts.

And now comes the above-named defendants, by their attorney, Willis Hand, and excepts to the injunctional order made by said court therein at the special term of said court, held in Wausau, Marathon county, April 8th, 1884, which order is dated April 16, 1884, and to each and every part and to the whole thereof.

Dated April 26th, 1884.

WILLIS HAND,
Def'ts' Att'y.

(Endorsements:) Exception to injunctional order. Filed April 26th, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis. Willis Hand.

STATE OF WISCONSIN, *Marathon County,* } *ss:*

Circuit Court.

At a general term of the circuit court in and for the county of Marathon, begun and holden at the court-house, in the city of Wausau, on the 8th day of April, A. D. 1884, and on the 8th day of said term, to wit, the 16th day of April, 1884, the same being
38 a special term for the county of Price and for the whole seventh judicial circuit of Wisconsin, Hon. Chas. M. Webb, circuit judge, presiding.

STATE OF WISCONSIN, *Marathon County,* } *ss:*

In Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
vs.
PRICE COUNTY *et al.*, Def'ts.

I, Hugo Peters, clerk of the circuit court in and for the county of Marathon, in the State aforesaid, do hereby certify that the papers hereto attached are all of the original papers presented in the above-entitled action, and that the annexed is the original injunctional order in the above-entitled action signed by the judge of this court in open court on the day the same bears date.

Witness my hand and the seal of this court, at Wausau, this 16th day of April, 1884.

[SEAL.] HUGO PETERS, *Clerk.*

Fees, $1.00.

(Endorsements:) Filed April 25, 1884. Chas. H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

39 *Injunctional Order.*

STATE OF WISCONSIN:

Circuit Court, Price County.

THE WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

Upon reading and filing the summons and verified complaint of the plaintiff in the above-entitled action, and it appearing satisfactory to the court that the injunctional order therein prayed for should issue, and upon motion of Edwin H. Abbot, plaintiff's attorney, it is ordered that, until the further order of the court, said defendants, The County of Price and the County Clerk and the County Treasurer of Price County, each and every of them, their deputies, servants, agents, officers, and attorneys, and each and every of them, do absolutely desist and refrain from advertising for sale any of the lands or village lots described in Exhibits "A," "B," and "C," hereto annexed, for the non-payment of taxes, and from selling or offering the same for sale for the non-payment of taxes, and from issuing any warrant for the collection thereof, and from in any manner attempting to collect the amount claimed to be due for taxes carried out against the lands mentioned in said exhibits upon the tax-
40 roll or which have been returned to the county treasurer as delinquent, and from in any manner attempting to collect any part thereof, and that they and each of them absolutely desist and refrain from attempting to interfere in any manner whatever with the lands or village lots described in said exhibits, and from in any manner interfering with the timber cut from said lands, and that they do absolutely desist and refrain from levying upon any property whatever belonging to this plaintiff for the purpose of collecting said taxes mentioned in said complaint, or any part thereof, and from in any manner attempting to enforce or collect the same from the plaintiff or its property; and it is further ordered that the plaintiff give to the defendants a written undertaking on its part, with one sufficient surety, to the effect that the plaintiff will pay to the defendants herein such damages, not exceeding five hundred dollars ($500), as they may sustain by reason of this injunctional order, if the court shall finally decide that the plaintiff was not entitled thereto, and let a copy of such undertaking be duly served upon the said defendants.

By the court:

CHAS. M. WEBB, *Judge.*

Dated April 16, A. D. 1884.

(Endorsements:) Filed April 25th, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

41 *Undertaking.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY TREASURER AND COUNTY CLERK OF PRICE COUNTY, Defendants. } Suit No. 6.

Whereas an application has been made by said plaintiff for an injunction restraining the county treasurer of Price county, his successors in office, deputies, and servants, from advertising for sale and from selling the lands described in plaintiff's complaint, and restraining the said county treasurer and all the defendants from in any manner attempting to collect the taxes therein mentioned and carried out in the return of the town treasurer against the lands of the plaintiff:

Now, therefore, we, Thomas H. Malone and Robert W. Maguire, of the city of Milwaukee, county of Milwaukee and State of Wisconsin, do hereby undertake that the plaintiff will pay to the parties enjoined, above named, such damages, not exceeding the sum of five hundred dollars, as they (or either of them) may sustain by reason of such injunction, if the court shall finally decide that the plaintiff is not entitled thereto, and such damages may be ascertained by reference or otherwise, as the court shall direct.

Dated Milwaukee, April 8th, A. D. 1884.

THOS. H. MALONE.
R. W. MAGUIRE.

STATE OF WISCONSIN, *Milwaukee County,* } ss:

Thomas H. Malone, being duly sworn, says he is the surety named in the foregoing undertaking; that he is a resident of the State of Wisconsin and is worth the sum of five hundred dollars, in property within the State of Wisconsin, over and above all his debts and exclusive of all property exempt from execution.

THOS. H. MALONE.

Subscribed and sworn to before me this 8th day of April, A. D. 1884.

[SEAL.] T. L. KENNAN,
Notary Public, Milwaukee County, Wisconsin.

STATE OF WISCONSIN, *Milwaukee County,* } ss:

R. W. Maguire, being duly sworn, says he is the surety named in the foregoing undertaking; that he is a resident of the State of Wisconsin and is worth the sum of five hundred dollars, in property within the State of Wisconsin, over and above all his debts and exclusive of all property exempt from execution.

R. W. MAGUIRE.

Subscribed and sworn to before me this 8 day of April, A. D. 1884.

[SEAL.] T. L. KENNAN,
Notary Public, Milwaukee Co., Wis.

42 [Endorsed:] Circuit court, Price county. Wisconsin Central Railroad Company, pl'ff, *vs.* Price County *et al.*, defendants. Injunctional order and undertaking for injunction. Suit No. 6. Due service of a copy of the within order & undertaking admitted this 16th day of April, 1884. Willis Hand, def'ts' att'y. Original file. Edwin A. Abbot, attorney for plaintiff, 110 Wisconsin St, Milwaukee, Wis.

[Endorsed:] Due service on me of a copy of the within injunctional order and undertaking is admitted this 19th day of April, 1884. M. Barry, county treasurer of Price county, Wis. Due service of two copies of the within injunctional order and undertaking is admitted this 19th day of April, 1884. F. W. Sackett, county clerk for Price county, Wis. Filed April 25, 1884. Charles H. Darlington, circuit c't clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

The within undertaking approved as to form and sufficiency thereof this 16th day of April, 1884.

CHAS. M. WEBB, *Judge.*

43 STATE OF WISCONSIN, } *ss:*
County of Price, }

I, A. W. Bond, sheriff of Price county, do hereby certify that I duly and personally served the annexed order to show cause, in the county of Price, on The County Treasurer of Price County, defendant therein named, by delivering to him a true copy thereof, and on F. W. Sackett, clerk of said Price county, one of the defendants therein named, by delivering to and by leaving with — two true copies thereof on the 10th day of Apr., 1884, and exhibiting to each of them the original signature of Judge Webb on said original order.

A. W. BOND,
Sheriff of Price County.

Fees:

Service	
Travel, — miles	
3 copies, 9 folios	.90
Total	.90

Paid.

—— ——, *Sheriff.*

(Endorsements:) Filed April 10th, 1884. Charles H. Darlington clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

Order to Show Cause Why Injunction Should not be Issued.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY *et al.*, Defendants. } Suit No. 6.

44 On the annexed complaint, verified by the affidavit of T. L. Kennan, one of the attorneys for the plaintiff in the above-entitled action, let the defendants show cause before me, at a special term of the circuit court for Price county, to be held at the court-house, in the city of Wausau, on the 15th day of April, A. D. 1884, at 2 o'clock in the afternoon of that day, or as soon thereafter as counsel can be heard, why the county treasurer of said Price county, his successors in office, deputies, servants, agents, and attorneys, should not be enjoined and restrained during the pending of this suit from advertising for sale and from selling the lands described in the plaintiff's complaint, or in any manner whatsoever attempting to collect the amount claimed to be due for taxes as carried out against the premises of the plaintiff in the tax roll therein mentioned, and why each and all of the defendants should not be enjoined and restrained during the pendency of this action from in any manner attempting to enforce the collection or payment of said taxes or any part thereof, and for such other and further relief as may be just—

It is further ordered that said defendants, their agents and servants, be in the meantime restrained, and they are hereby forbidden, from in any manner advertising said lands for sale or attempting to sell said lands or collect the taxes therein mentioned.

45 It is further ordered that the summons and complaint, together with a copy of this order, be served upon the defendants at least three days before the above-mentioned time set for hearing this motion.

CHAS. M. WEBB,
Circuit Judge.

(Endorsements:) Title. Filed April 10th, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

STATE OF WISCONSIN, } *ss*:
County of Price, }

I, A. W. Bond, sheriff of Price county, do hereby certify that I duly and personally served the annexed summons & complaint in the county of Price on M. Barry, the county clerk of Price county, one of the defendants therein named, by delivering to and by leaving with him true copies thereof on the 10 day of Apr., 1884.

A. W. BOND,
Sheriff of Price County.

Fees:

1 service	50
2 copy, 130 folios	13 00
Total	$13 50

Paid.

——— ———, *Sheriff.*

(Endorsements:) Filed April 10, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

46 STATE OF WISCONSIN, } ss:
County of Price, }

I, A. W. Bond, sheriff of Price county, do hereby certify that I duly and personally served the annexed summons and complaint in the county of Price on F. W. Sackett, clerk of Price county, one of the defendants therein named, by delivering to and by leaving with him two true copies each thereof on the 10 day of Apr., 1884.

A. W. BOND,
Sheriff of Price County.

Fees:

Service	1 00
Travel, — miles	
4 copies, 260 folios	26 00
Total	

Paid.

———, *Sheriff.*

(Endorsements:) Filed April 10, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

Complaint.

Circuit Court, Price County.

THE WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY AND THE COUNTY CLERK AND COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

The complaint of the above-named plaintiff, by Edwin H.
47 Abbot, its attorney, respectfully shows to the court—

First. That the plaintiff is a corporation duly created, organized, and existing under and by virtue of the laws of the State of Wisconsin, and by said laws empowered to acquire and hold real

and personal property; that the plaintiff was, on the twenty-fifth day of February, A. D. 1884, ever since has been, and now is the owner in fee simple of the lands described in Exhibit "A," hereto annexed and made a part of this complaint; that said lands are situated in the town of Worcester, in the county of Price and State of Wisconsin; that all of said lands are a portion of the lands owned by and granted to this plaintiff under and by virtue of the laws of the State of Winconsin for the purpose of aiding in the construction of its railroad, and were in the year 1883, under and by virtue of the laws and constitution of this State, lawfully exempt from any taxation for any purpose whatever, for the reason that the title to some of said lands was in the United States and of some in the State of Wisconsin, and that said lands were the property of the United States or the State of Wisconsin until on or about the twenty-fifth day of February, A. D. 1884, when said lands were duly conveyed by patents to this plaintiff, whereby this plaintiff became and now is the owner thereof.

Second. That, notwithstanding said lands were exempt from taxation as aforesaid, the assessors or certain individuals pretending to act as assessors of said town did, as plaintiff is informed and believes, unlawfully proceed to assess and did assess all of
48 said lands for the purpose of levying thereupon pretended State, county, town, highway, and school taxes in said town for the year 1883, and that said lands were subsequently put into the tax-roll in said town and town, county, school, highway, and other taxes were unlawfully levied thereon and carried out in said tax-roll against said lands as set forth in Exhibit "A," hereto attached, the amount so levied on each tract being carried out opposite to each description; that all of said taxes so levied and assessed on said lands were illegal and void for the reason that said lands were exempt from taxation for all purposes whatsoever, and said officers had no authority of law for assessing said lands or levying taxes thereon, said lands being by law exempt from taxation as aforesaid.

Third. Plaintiff further alleges, upon information and belief, that said pretended assessment of the plaintiff's lands herein described in the town of Worcester, in the year 1883, was wholly illegal and void for the reason that said assessment was made and the valuations thereof fixed and determined for the most part by individuals wholly unauthorized to act as assessors in said town, said assessment having been made by three or more individuals acting separately and independently of each other, one assessing one portion of said town and another assessing another portion, according to the division of the town which had been made by them for that purpose,
49 and said assessment having been made by three or more individuals, only one of whom had been elected to the office of assessor; and the plaintiff further alleges, upon information and belief, that all of the others so acting as assessors or assistant assessors had no lawful authority whatever to act in that capacity, and the entire assessment in said town was thereby rendered wholly illegal and void.

Fourth. The plaintiff further shows to the court, and alleges on information and belief, that after said pretended assessment had been made, as aforesaid, a tax-roll was made for said town and the lands of this plaintiff described herein were listed therein and taxes carried out on said tax-roll, based upon said illegal assessment, against the said lands for county, town, school, and highway taxes, as set forth in the schedule hereto annexed. The aggregate amount of all the taxes so attempted to be raised in said town in 1883 was the sum of nineteen thousand eight hundred and ninety-six dollars and fifteen cents ($19,896.15); that a portion of the tax so levied and assessed upon the plaintiff's lands was levied and extended for a town school tax; and the plaintiff further alleges upon information and belief that all of the school taxes so attempted to be levied and assessed upon the property in said town was illegal and void, for the reason that the town board of said town failed to present statements and estimates to the electors of said town at the annual town meeting held in said town on the 3d day of April, A. D.
50 1883, showing (1) the amount necessary for the support of schools during the year; (2) specifying the amount needed for teachers' wages; (3) the amount for school-house sites and for building, hiring, or purchasing school-houses; (4) the amount for fuel, and (5) the amount for incidental expenses, including repairs, maps, globes, charts, and for all needful school-room appurtenances; and for the reason that the electors of said town present at the said annual town meeting, held in said town on the 3d day of April, A. D. 1883, failed to vote on such estimates separately or to vote on them at all; and for the reason that the supervisors of said town failed to present any estimates to the electors at the general election in the fall for a vote thereon; but the plaintiff alleges upon information and belief that at the annual meeting held in said town on the 3d day of April, A. D. 1883, the gross sum of twenty-three hundred dollars ($2,300) was unlawfully voted to be levied and assessed upon the taxable property of the town of Worcester as a school tax, and a portion of said amount was unlawfully levied, assessed, and carried out on said tax-roll against the lands of this plaintiff, as shown in the exhibit hereto attached.

Fifth. Plaintiff further shows to the court, on information and belief, that a portion of said tax levied and assessed upon the plaintiff's lands in the town of Worcester for the year 1883 was
51 levied and extended for and as highway taxes, and the same were unlawfully levied for the reason that, in carrying out the amount of the tax against each piece of land on the tax-roll, the clerk based the apportionment of the said highway taxes upon the assessment of 1883, instead of the assessment of the preceding year as required by law.

Sixth. The plaintiff further shows to the court that a portion, to wit, eight hundred dollars ($800), of said amount so inserted in said tax-roll was levied and extended as and for a fund for the payment of police officers in said town, and so much of said tax was illegal and void for the reason that there is no incorporated village in said town and said town has no authority to elect or appoint police

officers nor to raise a fund for the payment of salary of police officers, and the said taxing officers had no authority to put said amount into the tax-roll.

Seventh. The plaintiff further alleges that all of the aforesaid taxes were placed in the tax-roll of said town and a pretended warrant annexed thereto, which roll with the warrant thereto attached was delivered to the town treasurer of said town for collection; that on or about the 15th day of March last the said town treasurer returned to the county treasurer of said county all of plaintiff's lands herein described for the pretended taxes levied and assessed thereon as hereinbefore set forth, and said county treasurer threatens to issue his warrant to levy and collect said pretended taxes,
52 and plaintiff fears he will execute his warrant as aforesaid and deliver the same to the sheriff of said county with instructions to levy and collect said taxes, or that said county treasurer will proceed to advertise and sell said lands for the non-payment of said taxes and will advertise and sell the same unless he shall be restrained by the order of the court, and upon said sale will issue tax certificates to the purchasers of said lands, and the county clerk of said county will, after the time for redemption has expired, issue deeds to the purchasers of said lands described in said certificates conveying said lands to the purchasers or holders thereof.

Eighth. Plaintiff further alleges that said taxes so pretended to be assessed upon said lands in said tax-roll, with the warrant thereunto attached and the return thereof to the county treasurer, create and constitute a cloud upon the title of this plaintiff to said lands, and which taxes are illegal and void for the reasons above set forth, and plaintiff ought not in justice or equity to be required to pay the same.

Wherefore and for each and all the causes herein set forth the plaintiff prays the judgment of this court that said pretended assessment and the taxes so carried out against the lands of this plaintiff be adjudged to be illegal and void and that they be can-
53 celled and set aside; that the county treasurer, his successors in office, deputies, servants, agents, and attorneys, be enjoined during the pendency of this suit from advertising for sale and from selling said lands or in any manner whatsoever attempting to collect the amount claimed to be due for taxes as carried out against the premises of this plaintiff in said tax-roll, and that each and all of the defendants be enjoined during the pendency of this action from in any manner attempting to enforce the collection of said taxes or any part thereof, and that upon a final hearing of this case said temporary injunction be made perpetual, and that the plaintiff have such other and further relief in the premises as the court may deem just and proper, together with the costs of this suit.

EDWIN H. ABBOT,
Attorney for Plaintiff.

STATE OF WISCONSIN, }
County of Marathon, } ss:

T. L. Kennan, being duly sworn, deposes and says that he is one of the attorneys for The Wisconsin Central Railroad Company, the plaintiff above named; that he has read the foregoing complaint and knows the contents thereof; that the allegations of said complaint are true to his own knowledge, except those matters therein stated on information and belief, and as to those matters he
54 believes it to be true. Deponent further says that the reason why this verification is not made by the said Wisconsin Central Railroad Company is that it is a corporation; that this deponent is one of the attorneys for it in this action and is authorized to and does make this verification for and in behalf of said corporation, and that the grounds of his knowledge and belief are personal knowledge of many of the facts therein stated, statements and reports made to him by various officers, agents, and employés of said corporation and other persons, and inspection of the records of said corporation and inspection of the records of said town and county; and affiant further says that none of the general officers of said railroad company are at this time in the State of Wisconsin.

T. L. KENNAN.

Subscribed and sworn to before me this 8th day of April, A. D. 1884.

[SEAL.] WM. SHIMWELL,
Notary Public, Milwaukee Co., Wis.

(Endorsements:) Filed April 10th, 1884. Charles H. Darlington, clerk cir. c't. Filed July 17, 1885. Clarence Kellogg, clerk cir. c't, Wis.

(Description of land follows.)

55 EXHIBIT "A" WORCESTER.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	*Fractional lot 17 of sec. 7, town. 36 north, of range 1 east	--	--	
	*Fractional lot 18 of sec. 7, town. 36 north, of range 1 east	--	--	
			Tax,	1883.
" 20	Northeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 21	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 22	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 23	Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 24	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 25	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
" 26	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
56	Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	3 95
" 27	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	2 96
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	2 96
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 1 west	--	--	
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 28	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 29	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 30	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	*North fractional half (½) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
" 31	Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	2 96
" 32	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
" 33	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
57	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	3 95
" 34	Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
" 35	Northeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
" 36	Northeast quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	*Northwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 37	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 38	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 39	Northeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	†
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	
" 40	Southwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
" 41	Southwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
58	Northeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 42	Southwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98

*Erased in original. †Not on tax-roll.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 43	Southwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 44	Southwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 45	Southwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
" 46	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	3 95
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
" 47	Southwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	8 88
	Fractional lot 4 of sec. 7, town. 37 north, of range 1 east	--	--	99
	Fractional lot 2 of sec. 17, town. 37 north, of range 1 east	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
" 48	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 37 north, of range 3 east	--	--	†
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	†
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	†
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	40

*Erased in original. †Not on tax-roll.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
59	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 37 north, of range 3 east	--	--	.59
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	40
" 49	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 3 east	--	--	79
	*Fractional lot 1 of sec. 7, town. 37 north, of range 1 west	--	--	
	Fractional lot 2 of sec. 7, town. 37 north, of range 1 west	--	--	99
	*Fractional lot 3 of sec. 7, town. 37 north, of range 1 west	--	--	
	Fractional lot 1 of sec. 15, town. 37 north, of range 1 west	--	--	04
" 50	Fractional lot 5 of sec. 15, town. 37 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
" 51	Northeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	7 89
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	8 88
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	4 93
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	7 89
" 52	Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	4 93
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
" 53	Northeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
" 54	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
" 55	Southeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	3 95
60	Northwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
" 56	Southeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
" 57	Southeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	3 95
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	3 95
" 58	Southeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
" 59	Southeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
" 60	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
" 61	Southeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
" 62	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
" 63	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
	Fractional lot 6 of sec. 3, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
61	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
" 64	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
" 65	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	W.½	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--		
" 66	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 37 north, of range 2 west	--	--	

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 67	Fractional lot 3 of sec. 17, town. 37 north, of range 2 west	--	--	1 98
	Fractional lot 7 of sec. 17, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
" 68	Fractional lot 1 of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 2 of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 19, town. 37 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
" 69	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
62	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
" 70	Northeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	8 88
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	6 91
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	5 92
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	
" 71	Northwest quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	4 93
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
" 72	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 73	Southeast quarter (¼) of the southeast quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	5 92
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
" 74	Southwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Northeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
" 75	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
" 76	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
68	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 77	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 78	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
"	79 Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
"	80 Southeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	* Southwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
"	81 Northeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
"	82 Northwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
"	83 Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
"	84 Southeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
64	Northwest quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 85	Southeast quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 86	Southeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Fractional lot 1 of sec. 1, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
" 87	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 38 north, of range 1 west	--	--	99
" 88	Fractional lot 8 of sec. 9, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
" 89	Fractional lot 1 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 2 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 3 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 4 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 5 of sec. 17, town. 38 north, of range 1 west	--	--	99
" 90	Fractional lot 6 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 8 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 7 of sec. 16, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 91	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
65	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 92	Southwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 93	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
" 94	Fractional lot 1 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 2 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 3 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 4 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 5 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
" 95	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 96	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 97	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 98	Southwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 99	Southwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
66	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
" 100	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	1 98
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 101	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 102	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 103	Northeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 104	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
" 105	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 106	Southeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 107	Northeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
67	Southeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 108	Northeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 109	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 110	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 111	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 112	Northeast quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
" 113	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
68	Southwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 114	Southeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	
" 115	Southwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99

*Erased in original. †Not ass'ed.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 116	Southwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	99
" 117	Fractional lot 1 of sec. 25, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 118	Southeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 119	Southeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 120	Southeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	* Northwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 121	Northeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
69	Southeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 122	Northeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 123	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 124	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 125	Northwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 126	Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 127	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
" 128	Southeast quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
"	129 Fractional lot 3 of sec. 35, town. 38 north, of range 2 west	--	--	99
	Fractional lot 4 of sec. 35, town. 38 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 35, town. 38 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 39 north, of range 1 east	--	--	

* Erased in original.

70 [Endorsed:] State of Wisconsin, circuit court, Price county. Filed April 10, 1884. Charles H. Darlington, clerk. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

71 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY TREASURER OF PRICE County, and The County Clerk of Price County, Defendants. } Suit No. 6.

The State of Wisconsin to the said defendants and each of them:

You are hereby summoned to appear within twenty days after service of this summons, exclusive of the day of service, and defend the above-entitled action in the court aforesaid; and in case of your failure so to do judgment will be rendered against you according to the demand of the complaint, of which a copy is herewith served upon you.

EDWIN H. ABBOT,
Plaintiff's Attorney.

P. O. address, Milwaukee, Milwaukee Co., Wis.

(Endorsements:) Summons and complaint. Edwin H. Abbot, attorney for plaintiff, Milwaukee, Wis. Suit No. 6. Filed April 10th, 1884. Charles H. Darlington, clerk cir. c't. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

72 *Findings.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

This action was tried on the 28th and 29th days of January, A. D. 1885, before the Hon. Charles M. Webb, circuit judge, sitting at Phillips, Wisconsin, and upon the evidence offered and given in behalf of the plaintiff and defendants, the court having heard the arguments of counsel for the respective parties in the case, the following facts and conclusions of law were found by the court:

Facts Found.

First. That all of the lands described in the plaintiff's complaint are wild, unoccupied, and unimproved, and are situated in the town of Worcester, county of Price, and State of Wisconsin, and are a portion of the lands granted to the State of Wisconsin by the 3d section of the act of May 5th, 1864, hereinafter referred to, for the purpose of aiding in the construction of what is now the Wisconsin Central railroad.

Second. That eleven (11) of the "forties" of the land de-
73 scribed in the plaintiff's complaint are situated within the ten-mile limits of said grant, and all the rest of the lands described in the plaintiff's complaint are situated within the indemnity limits of said grant, and are all located in the sections designated by odd numbers.

Third. That all of said lands were assessed in said town of Worcester in 1883, and put into the tax-roll, and the amount of tax carried out against each respective piece, as set forth in the plaintiff's complaint, but said lands were not assessed to the plaintiff nor to any one else, nor to "unknown," and none of the real estate included in the assessment-roll for that year was assessed to the owners thereof; that a warrant was attached to said tax-roll, and the roll, with said warrant attached, placed in the hands of the town treasurer of said town of Worcester for collection; that the taxes levied and assessed on said lands were unpaid, and the town treasurer of the said town of Worcester returned the same to the county treasurer of Price county as delinquent, as set forth in the plaintiff's complaint.

Fourth. That the plaintiff received a patent from the State of Wisconsin, bearing date February 25th, 1884, whereby the State conveyed to it all of the lands described in the plaintiff's complaint, which patent is by our statute made presumptive evidence of the facts therein stated, and that the grantee named therein be-
74 came vested thereby at the date thereof with absolute title in fee to the lands therein described; that, according to the true

intent and meaning of said act of Congress of May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated by said third section in accordance with the terms of said act of Congress and of the acts of the Legislature aforesaid, and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a "float."

Fifth. That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner
75 of the General Land Office and the Secretary of the Interior Department of the United States had jurisdiction and a supervising control over the matter, and might approve or reject the selection made by the plaintiff and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869, the time when the grant was withdrawn from the market by the General Land Office; that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary of the Interior and was in dispute between the State and the United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof; that the General Land Office of the United States had exclusive control, in the first instance, and the sole power to determine how much and what lands the plaintiff was entitled
76 to receive under said act of Congress, and to decide all conflicting claims thereto; that the plaintiff did not in any manner delay the issuing of patents to it, but, on the contrary, was diligent and persistent in its efforts to procure said patents from the time when its railroad was finished down to the time when said patents were issued; that the delay in their issue was caused entirely by the acts of the Government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin, and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department.

Sixth. That the lands described in the plaintiff's complaint in this action had, at the time the taxes were levied and assessed thereon in 1883, been selected as lands to which said land grant applied; but said selections had not been approved by the Secretary of the Interior, and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents. On the contrary, the Secretary of the Interior refused to recognize the rights of the State of Wisconsin to said lands or to approve the selections so made.

Seventh. That all the material allegations in the plaintiff's complaint are true.

77 *Conclusions of Law.*

As conclusions of law for the foregoing I find—

First. That it was not the intent and meaning of said act of Congress of May 5th, 1864, that so long as the lands therein mentioned were held in trust by the United States or the State of Wisconsin and the trust thereby created remained unexecuted and the lands thereby granted had not been identified and set apart and the grant applied thereto said lands should be subject to taxation, but that when the lands in question had been earned by the plaintiff by the completion of its road and had been patented to it then they thereby became relieved of the trust and burden implied in the grant. Prior to that the company had no right to dispose of the lands, but thereafter the company would hold them under the patents with the same right of absolute disposition as lands held by individuals under patents by purchase from the General Government; that after this had been done the title and ownership of the lands thereby passed not only beyond the control of the United States, but also beyond the control of the State, and the lands became, like other private property, subject to such burdens of Government as the State, subject to constitutional limitations, might in its wisdom and discretion impose upon them; that lands sold by the United States may be taxed before the patent is issued, where the lands are identified and the right to a patent is complete, and the equitable
78 title is fully vested in the party without any further act remaining to be done either by said party or by the General Government or by the State, provided the right of said party to a patent is not denied; but in the present case the General Government had a further duty to perform in respect of these lands at the time these taxes were levied and assessed, and the right of the State and the plaintiff to said lands was substantially denied, since it was not conceded or admitted by the Secretary of the Interior. The patents introduced in evidence on the part of the plaintiff are evidence that the lands therein described had then been earned by the plaintiff and are *prima facie* evidence that the plaintiff thereby received a title to said lands in fee; that up to the date of said patents the legal title was either in the United States or the State of Wisconsin, and the patents being dated February 25th, 1884, rebuts any presumption that the lands were prior to that time subject to taxa-

tion, and the burden of proving that the lands were subject to taxation at the time when the taxes were levied and assessed thereon rests upon the defendants; that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiff; that while these lands had been in truth earned by the plaintiff before the lands were assessed for taxation, yet they were withheld from the plaintiff by the refusal of the Interior Department to determine
79 conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon. The fact of the completion of the road some time before the patents issued to the plaintiff is not evidence of any fraudulent practice to prevent the issuance of the patents for the purpose of avoiding taxation; and, on the other hand, the proofs are positive and uncontradicted that both State and plaintiff persistently tried to procure such issue.

Second. That under the land-grant act of May 5th, 1864, said grant was a "float" and did not attach to any particular lands until the route of the road had been definitely fixed and the lands had been selected and the selections had also been duly approved by the Secretary of the Interior; that as long as the claims of the plaintiff to these lands was not admitted and recognized and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States and as long as patents were consequently withheld by said officers against the will and request of the plaintiff, the lands were not subject to taxation by the State.

Third. That under the Constitution and laws of the United States, as well as under the constitution and laws of the State of
80 Wisconsin, the lands described in the plaintiff's complaint were not subject to taxation in the year 1883; that the taxes levied and assessed thereon and the return thereof as delinquent by the town treasurer of the town of Worcester were and are illegal and void and should be set aside, for the reason that said lands were, both by the Constitution and laws of the United States as well as of the State of Wisconsin, exempt from taxation in 1883, at the time said taxes were levied and assessed thereon.

Fourth. That under the provisions of said act of Congress of May 5th, 1864, the assessment and return of said lands for taxation was illegal and void, and the said tax is a cloud upon the plaintiff's title, and the plaintiff is entitled to prevail in this action and the relief prayed for in this complaint.

By the court:

CHAS. M. WEBB, *Judge.*

(Endorsements:) Findings. Suit No. 6. Filed February 18th, 1885. N. F. Norlin, clerk circuit court. Filed Jul. 17th, 1885. Clarence Kellogg, clerk sup. c't Wis.

81 *Exceptions to Findings.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Def'ts.

And now comes the defendants, by their attorneys, Willis Hand, M. Barry, & A. R. Mead, and except to the court's findings of fact and conclusions of law in the above-entitled case as follows:

Exceptions to Findings of Fact.

1. The defendants except to the following language contained in the first finding of fact, viz: "All of the lands * * * are wild, unoccupied, and unimproved."

2. The defendants except to the fourth finding of fact and to each part thereof as being against the evidence. Defendants except particularly to the following language contained therein, viz: "Whereby the State conveyed to it all the lands described in the plaintiff's complaint," * * * "and that the grantee named therein became vested thereby at the date thereof with absolute title in fee to the lands therein described; that, according to the true intent and meaning of said act of Congress of May 5th, 1864," * * * "and of the various acts of the Legislature of the State of Wisconsin, conferring said grant upon the plaintiff,
82 the plaintiff took no title to said lands" * * * "until it should receive patents therefor;" also "and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a 'float.'"

3. The defendants except to the following language contained in the fifth finding of fact, viz: "That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner of the General Land Office and the Secretary of the Interior" * * * "might approve or reject the selections made by the plaintiff, and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869;" also "that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary
83 of the Interior, and was in dispute between the State and the

United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof, and the General Land Office of the United States had exclusive control in the first instance and the sole power of determining how much and what lands the plaintiff was entitled to receive under said act of Congress, and to decide all conflicting claims thereto;" * * * "that the plaintiff" * * * "was diligent and persistent in its efforts to procure said patents;" * * * "that the delay in their issue was caused entirely by the acts of the Government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department."

4. Defendants except to the following language contained in the sixth finding of fact, viz: "But said selection had not been approved by the Secretary of the Interior and had not been certified to the State of Wisconsin. and had not in any manner been
84 identified as lands upon which the plaintiff would eventually receive patents."

5. The defendants except to the 7th finding of fact and to the whole and each part thereof.

Exceptions to Conclusions of Law.

1. Defendants except to the following language contained in the court's first conclusion of law, commencing at the 24th line, viz: "Or by the General Government or by the State, provided the right of said party to a patent is not denied;" also, 36th line, "and the patents being dated February 25, 1884, rebuts any presumption that the lands were prior to that time subject to taxation;" * * * "that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiff"—*i. e.*, the patents; also, line 43, "yet they were withheld from the plaintiff by the refusal of the Interior Department to determine conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon;" also, line 53, "and, on the other hand, the proofs are
85 positive and uncontradicted that both State and plaintiff tried to procure such issue," as not sustained by the evidence.

2. Defendants except to the following language in the court's second conclusion of law, third line: "And the lands had been selected and the selection had also been duly approved by the Secretary of the Interior; that as long as the cla-m of the plaintiff to these lands was not admitted and recognized and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by

said officers, against the will and request of the plaintiff, the lands were not subject to taxation by the State," as not sustained by the evidence.

3. The defendants except to the third conclusion of law and to each part thereof as not sustained by the evidence.

4. The defendants except to the fourth conclusion of law and to each part thereof as not sustained by the evidence.

Dated Feb'y 19, 1885.

WILLIS HAND, M. BARRY & A. R. MEAD,
Def'ts' Att'ys.

(Endorsements:) Defendants' exceptions to findings of fact & conclusions of law. Case No. 6. Original. Filed February 24th, 1885. N. F. Norlin, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis. Mead, Hand & Barry, def'ts' att'ys.

86 At a general term of the circuit court held at the court-house, in the village of Phillips, in and for the county of Price and State of Wisconsin, on the 28th and 29th days of January, A. D. 1885.

Present: Hon. Charles M. Webb, circuit judge.

Judgment.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants.
} Suit No. 6.

This action having come on for trial before the court, on the issues joined therein, at the general term of the circuit court, held at the court-house, in the village of Phillips, in and for the county of Price, on the 28th day of January, A. D. 1885, before the Hon. Charles M. Webb, circuit judge—T. L. Kennan appearing for the plaintiff, Willis Hand, M. Barry and A. R. Mead, Esquires, appearing for the defendants—and the court having heard the proofs and allegations of the respective parties and having thereupon made his decision in writing, which has been filed with the clerk of this court, and having thereby decided that all the material allegations
87 of the complaint herein are true, and that the plaintiff is entitled to the relief demanded in the complaint:

Now, therefore, on the said decisions and the pleadings and proceedings in this cause, on motion of T. L. Kennan, one of the attorneys for the plaintiff, it is—

Ordered and adjudged that all the lands described in the plaintiff's complaint, a list of which is hereto attached and marked "Exhibit A," are a portion of the lands granted to the State of Wisconsin by the third section of the act of Congress, dated May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin;" that the State of Wisconsin,

on or about the 25th day of February, A. D. 1884, duly conveyed all of said lands to the plaintiff herein, whereby the plaintiff then became and still is the owner thereof in fee; that according to the true intent and meaning of said act of Congress above mentioned and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated
88 by said third section of said act of Congress in accordance with the terms of said act and of the acts of the Legislature aforesaid, and said lands did not become subject to taxation until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were so segregated and identified as lands to which the grant applied the grant was a "float;" that all of said lands were assessed for taxation in the town of Worcester and county of Price in 1883, and the amount of taxes assessed and carried out against each description is shown by the exhibit hereto attached; that the lands described in the plaintiff's complaint in this action had, at the time the taxes were so levied and assessed thereon in 1883, been selected as lands to which said grant applied, but said selections had not been approved by the Secretary of the Interior and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents or set apart as lands to which said land grant applied; and said lands were not, at the time they were assessed in 1883, subject to taxation, and all taxes so levied and assessed thereon were and are illegal and void and should be set aside; that when the lands in question had been earned by the plaintiff by the completion of its road and had
89 been patented to it they thereby became relieved of the trust and burden implied in the grant, and the company would hold under the patents with the same right of absolute disposition as lands held by individuals under patents by purchase from the General Government; that after this had been done the title to the ownership of the lands thereby passed not only beyond the control of the United States, but also beyond the control of the State, and the lands became, like other private property, subject to such burdens of government as the State, subject to Constitutional limitations, might, in its wisdom and discretion, impose upon them.

The patents introduced in evidence on the part of the plaintiff are evidence that the lands therein described had then been earned by the plaintiff and are *prima facie* evidence that the plaintiff thereby received a title to said lands in fee; that up to the date of said patents the title was either in the United States or the State of Wisconsin, and the patents being dated February 25th, 1884, rebuts any presumption that the lands were prior to that time subject to taxation, and the burden of proof that the lands were subject to taxation at the time the taxes were levied and assessed thereon rested

upon the defendant; that the evidence offered by the defendant failed to overcome the *prima facie* evidence of the plaintiff; that under the land-grant act of May 5th, 1864, said grant was a "float,"
90 and did not attach to any particular lands until the route of the road had been definitely fixed and the lands had been selected and the selection had been duly approved by the Secretary of the Interior; that as long as the claim of the plaintiff to those lands was not admitted and recognized, but was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by said officers against the will and request of the plaintiff, the lands were not subject to taxation by the State, and no rule of law or equity would require the plaintiff to pay taxes thereon. The fact of the completion of the road some time before the patents issued to the plaintiff is not evidence of any fraudulent practice to prevent the issuance of patents for the purpose of avoiding taxation.

It is further adjudged that under a proper construction of the act of Congress of May 5th, 1864, above referred to, and of the Constitution and laws of the United States and the constitution and laws of the State of Wisconsin, the said lands were not subject to taxation in the year 1883, and the taxes levied and assessed thereon and the return thereof as delinquent by the town treasurer of the town of Worcester were and are illegal and void and should be, and hereby are, set aside as a cloud upon the plaintiff's title.

And it is further adjudged and determined that the defendants be, and they are hereby, perpetually enjoined and restrained from collecting or attempting to collect the taxes so levied and assessed on said lands in the year 1883, and the county treasurer of
91 Price county is perpetually enjoined and strictly prohibited from advertising said lands for sale for the non-payment of said taxes, and each and all of the defendants and their successors in office, agents and attorneys, are perpetually enjoined and strictly prohibited from taking any steps whatever to enforce the collection of said taxes, and the injunction heretofore granted herein is made perpetual.

And it is further adjudged and determined that the plaintiff, The Wisconsin Central Railroad Company, do have and recover judgment against the defendant, Price County, for the sum of $354 *dollars* and 35 cents for its costs and disbursements in this action.

By the court:

N. F. NORLIN,
Clerk of Circuit Court, Price Co., Wis.

92 EXHIBIT "A."

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	* Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* Fractional lot 17 of sec. 7, town. 36 north, of range 1 east	--		
	* Fractional lot 18 of sec. 7, town. 36 north, of range 1 east	--		
			Tax,	1883.
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 16	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 17	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 18	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 19	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40

* Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 20	Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
93				
" 21	Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	2 96
" 22	Southwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	2 96
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 1 west	--	--	
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 23	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 24	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 25	Northwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	*North fractional half (½) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
" 26	Northeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	1 98
" 27	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
" 28	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
94	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	3 95
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
" 29	Southwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
" 30	Northwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	
" 31	Southwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
" 62	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
" 63	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
	Fractional lot 6 of sec. 3, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
61	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
" 64	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
" 65	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	W.½	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--		
" 66	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 37 north, of range 2 west	--	-	

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 67	Fractional lot 3 of sec. 17, town. 37 north, of range 2 west	--	--	1 98
	Fractional lot 7 of sec. 17, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
" 68	Fractional lot 1 of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 2 of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 19, town. 37 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
" 69	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
62	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
" 70	Northeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	8 88
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	6 91
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	5 92
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	
" 71	Northwest quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	4 93
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
" 72	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 73	Southeast quarter (¼) of the southeast quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	5 92
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
" 74	Southwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Northeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
" 75	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
" 76	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
68	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 77	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 78	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 79	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 80	Southeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	* Southwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 81	Northeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 82	Northwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 83	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 84	Southeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
64	Northwest quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
" 85	Southeast quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 86	Southeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Fractional lot 1 of sec. 1, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
" 87	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 38 north, of range 1 west	--	--	99
" 88	Fractional lot 8 of sec. 9, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
" 89	Fractional lot 1 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 2 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 3 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 4 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 5 of sec. 17, town. 38 north, of range 1 west	--	--	99
" 90	Fractional lot 6 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 8 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 7 of sec. 16, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 91	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
65	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 92	Southwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 93	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
" 94	Fractional lot 1 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 2 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 3 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 4 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 5 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
" 95	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 96	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 97	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 98	Southwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 99	Southwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
66	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
" 100	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	1 98
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 101	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 102	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 103	Northeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 104	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
" 105	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 106	Southeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 107	Northeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
67	Southeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 108	Northeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 109	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 110	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 111	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 112	Northeast quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
" 113	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
68	Southwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 114	Southeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	
" 115	Southwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99

*Erased in original. †Not ass'ed.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 116	Southwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	99
" 117	Fractional lot 1 of sec. 25, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 118	Southeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 119	Southeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 120	Southeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	* Northwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 121	Northeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
69	Southeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 122	Northeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 123	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 124	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 125	Northwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 126	Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 127	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
" 128	Southeast quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99

Exhibit "A" Worcester—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
"	129 Fractional lot 3 of sec. 35, town. 38 north, of range 2 west	--	--	99
	Fractional lot 4 of sec. 35, town. 38 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 35, town. 38 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 39 north, of range 1 east	--	--	

*Erased in original.

70 [Endorsed:] State of Wisconsin, circuit court, Price county. Filed April 10, 1884. Charles H. Darlington, clerk. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

71 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY TREASURER OF PRICE County, and The County Clerk of Price County, Defendants. } Suit No. 6.

The State of Wisconsin to the said defendants and each of them:

You are hereby summoned to appear within twenty days after service of this summons, exclusive of the day of service, and defend the above-entitled action in the court aforesaid; and in case of your failure so to do judgment will be rendered against you according to the demand of the complaint, of which a copy is herewith served upon you.

EDWIN H. ABBOT,
Plaintiff's Attorney.

P. O. address, Milwaukee, Milwaukee Co., Wis.

(Endorsements:) Summons and complaint. Edwin H. Abbot, attorney for plaintiff, Milwaukee, Wis. Suit No. 6. Filed April 10th, 1884. Charles H. Darlington, clerk cir. c't. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

72 *Findings.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants.
} Suit No. 6.

This action was tried on the 28th and 29th days of January, A. D. 1885, before the Hon. Charles M. Webb, circuit judge, sitting at Phillips, Wisconsin, and upon the evidence offered and given in behalf of the plaintiff and defendants, the court having heard the arguments of counsel for the respective parties in the case, the following facts and conclusions of law were found by the court:

Facts Found.

First. That all of the lands described in the plaintiff's complaint are wild, unoccupied, and unimproved, and are situated in the town of Worcester, county of Price, and State of Wisconsin, and are a portion of the lands granted to the State of Wisconsin by the 3d section of the act of May 5th, 1864, hereinafter referred to, for the purpose of aiding in the construction of what is now the Wisconsin Central railroad.

Second. That eleven (11) of the "forties" of the land de-
73 scribed in the plaintiff's complaint are situated within the ten-mile limits of said grant, and all the rest of the lands described in the plaintiff's complaint are situated within the indemnity limits of said grant, and are all located in the sections designated by odd numbers.

Third. That all of said lands were assessed in said town of Worcester in 1883, and put into the tax-roll, and the amount of tax carried out against each respective piece, as set forth in the plaintiff's complaint, but said lands were not assessed to the plaintiff nor to any one else, nor to "unknown," and none of the real estate included in the assessment-roll for that year was assessed to the owners thereof; that a warrant was attached to said tax-roll, and the roll, with said warrant attached, placed in the hands of the town treasurer of said town of Worcester for collection; that the taxes levied and assessed on said lands were unpaid, and the town treasurer of the said town of Worcester returned the same to the county treasurer of Price county as delinquent, as set forth in the plaintiff's complaint.

Fourth. That the plaintiff received a patent from the State of Wisconsin, bearing date February 25th, 1884, whereby the State conveyed to it all of the lands described in the plaintiff's complaint, which patent is by our statute made presumptive evidence of the facts therein stated, and that the grantee named therein be-
74 came vested thereby at the date thereof with absolute title in fee to the lands therein described; that, according to the true

intent and meaning of said act of Congress of May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated by said third section in accordance with the terms of said act of Congress and of the acts of the Legislature aforesaid, and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a "float."

Fifth. That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner
75 of the General Land Office and the Secretary of the Interior Department of the United States had jurisdiction and a supervising control over the matter, and might approve or reject the selection made by the plaintiff and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869, the time when the grant was withdrawn from the market by the General Land Office; that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary of the Interior and was in dispute between the State and the United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof; that the General Land Office of the United States had exclusive control, in the first instance, and the sole power to determine how much and what lands the plaintiff was entitled
76 to receive under said act of Congress, and to decide all conflicting claims thereto; that the plaintiff did not in any manner delay the issuing of patents to it, but, on the contrary, was diligent and persistent in its efforts to procure said patents from the time when its railroad was finished down to the time when said patents were issued; that the delay in their issue was caused entirely by the acts of the Government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin, and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department.

Sixth. That the lands described in the plaintiff's complaint in this action had, at the time the taxes were levied and assessed thereon in 1883, been selected as lands to which said land grant applied; but said selections had not been approved by the Secretary of the Interior, and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents. On the contrary, the Secretary of the Interior refused to recognize the rights of the State of Wisconsin to said lands or to approve the selections so made.

Seventh. That all the material allegations in the plaintiff's complaint are true.

77 *Conclusions of Law.*

As conclusions of law for the foregoing I find—

First. That it was not the intent and meaning of said act of Congress of May 5th, 1864, that so long as the lands therein mentioned were held in trust by the United States or the State of Wisconsin and the trust thereby created remained unexecuted and the lands thereby granted had not been identified and set apart and the grant applied thereto said lands should be subject to taxation, but that when the lands in question had been earned by the plaintiff by the completion of its road and had been patented to it then they thereby became relieved of the trust and burden implied in the grant. Prior to that the company had no right to dispose of the lands, but thereafter the company would hold them under the patents with the same right of absolute disposition as lands held by individuals under patents by purchase from the General Government; that after this had been done the title and ownership of the lands thereby passed not only beyond the control of the United States, but also beyond the control of the State, and the lands became, like other private property, subject to such burdens of Government as the State, subject to constitutional limitations, might in its wisdom and discretion impose upon them; that lands sold by the United States may be taxed before the patent is issued, where the lands are identified and the right to a patent is complete, and the equitable
78 title is fully vested in the party without any further act remaining to be done either by said party or by the General Government or by the State, provided the right of said party to a patent is not denied; but in the present case the General Government had a further duty to perform in respect of these lands at the time these taxes were levied and assessed, and the right of the State and the plaintiff to said lands was substantially denied, since it was not conceded or admitted by the Secretary of the Interior. The patents introduced in evidence on the part of the plaintiff are evidence that the lands therein described had then been earned by the plaintiff and are *prima facie* evidence that the plaintiff thereby received a title to said lands in fee; that up to the date of said patents the legal title was either in the United States or the State of Wisconsin, and the patents being dated February 25th, 1884, rebuts any presumption that the lands were prior to that time subject to taxa-

tion, and the burden of proving that the lands were subject to taxation at the time when the taxes were levied and assessed thereon rests upon the defendants; that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiff; that while these lands had been in truth earned by the plaintiff before the lands were assessed for taxation, yet they were withheld from the
79 plaintiff by the refusal of the Interior Department to determine conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon. The fact of the completion of the road some time before the patents issued to the plaintiff is not evidence of any fraudulent practice to prevent the issuance of the patents for the purpose of avoiding taxation; and, on the other hand, the proofs are positive and uncontradicted that both State and plaintiff persistently tried to procure such issue.

Second. That under the land-grant act of May 5th, 1864, said grant was a "float" and did not attach to any particular lands until the route of the road had been definitely fixed and the lands had been selected and the selections had also been duly approved by the Secretary of the Interior; that as long as the claims of the plaintiff to these lands was not admitted and recognized and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States and as long as patents were consequently withheld by said officers against the will and request of the plaintiff, the lands were not subject to taxation by the State.

Third. That under the Constitution and laws of the United States, as well as under the constitution and laws of the State of
80 Wisconsin, the lands described in the plaintiff's complaint were not subject to taxation in the year 1883; that the taxes levied and assessed thereon and the return thereof as delinquent by the town treasurer of the town of Worcester were and are illegal and void and should be set aside, for the reason that said lands were, both by the Constitution and laws of the United States as well as of the State of Wisconsin, exempt from taxation in 1883, at the time said taxes were levied and assessed thereon.

Fourth. That under the provisions of said act of Congress of May 5th, 1864, the assessment and return of said lands for taxation was illegal and void, and the said tax is a cloud upon the plaintiff's title, and the plaintiff is entitled to prevail in this action and the relief prayed for in this complaint.

By the court:

CHAS. M. WEBB, *Judge.*

(Endorsements:) Findings. Suit No. 6. Filed February 18th, 1885. N. F. Norlin, clerk circuit court. Filed Jul. 17th, 1885. Clarence Kellogg, clerk sup. c't Wis.

81 *Exceptions to Findings.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Def'ts.

And now comes the defendants, by their attorneys, Willis Hand, M. Barry, & A. R. Mead, and except to the court's findings of fact and conclusions of law in the above-entitled case as follows:

Exceptions to Findings of Fact.

1. The defendants except to the following language contained in the first finding of fact, viz: "All of the lands * * * are wild, unoccupied, and unimproved."

2. The defendants except to the fourth finding of fact and to each part thereof as being against the evidence. Defendants except particularly to the following language contained therein, viz: "Whereby the State conveyed to it all the lands described in the plaintiff's complaint," * * * "and that the grantee named therein became vested thereby at the date thereof with absolute title in fee to the lands therein described; that, according to the true intent and meaning of said act of Congress of May 5th, 1864," * * * "and of the various acts of the Legislature of the State of Wisconsin, conferring said grant upon the plaintiff,
82 the plaintiff took no title to said lands" * * * "until it should receive patents therefor;" also "and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a 'float.'"

3. The defendants except to the following language contained in the fifth finding of fact, viz: "That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner of the General Land Office and the Secretary of the Interior" * * * "might approve or reject the selections made by the plaintiff, and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869;" also "that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary
83 of the Interior, and was in dispute between the State and the

United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof, and the General Land Office of the United States had exclusive control in the first instance and the sole power of determining how much and what lands the plaintiff was entitled to receive under said act of Congress, and to decide all conflicting claims thereto;" * * * "that the plaintiff" * * * "was diligent and persistent in its efforts to procure said patents;" * * * "that the delay in their issue was caused entirely by the acts of the Government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department."

4. Defendants except to the following language contained in the sixth finding of fact, viz: "But said selection had not been approved by the Secretary of the Interior and had not been certified to the State of Wisconsin, and had not in any manner been
84 identified as lands upon which the plaintiff would eventually receive patents."

5. The defendants except to the 7th finding of fact and to the whole and each part thereof.

Exceptions to Conclusions of Law.

1. Defendants except to the following language contained in the court's first conclusion of law, commencing at the 24th line, viz: "Or by the General Government or by the State, provided the right of said party to a patent is not denied;" also, 36th line, "and the patents being dated February 25, 1884, rebuts any presumption that the lands were prior to that time subject to taxation;" * * * "that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiff"—*i. e.*, the patents; also, line 43, "yet they were withheld from the plaintiff by the refusal of the Interior Department to determine conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon;" also, line 53, "and, on the other hand, the proofs are
85 positive and uncontradicted that both State and plaintiff tried to procure such issue," as not sustained by the evidence.

2. Defendants except to the following language in the court's second conclusion of law, third line: "And the lands had been selected and the selection had also been duly approved by the Secretary of the Interior; that as long as the cla-m of the plaintiff to these lands was not admitted and recognized and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by

said officers, against the will and request of the plaintiff, the lands were not subject to taxation by the State," as not sustained by the evidence.

3. The defendants except to the third conclusion of law and to each part thereof as not sustained by the evidence.

4. The defendants except to the fourth conclusion of law and to each part thereof as not sustained by the evidence.

Dated Feb'y 19, 1885.

WILLIS HAND, M. BARRY & A. R. MEAD,
Def'ts' Att'ys.

(Endorsements:) Defendants' exceptions to findings of fact & conclusions of law. Case No. 6. Original. Filed February 24th, 1885. N. F. Norlin, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis. Mead, Hand & Barry, def'ts' att'ys.

86 At a general term of the circuit court held at the court-house, in the village of Phillips, in and for the county of Price and State of Wisconsin, on the 28th and 29th days of January, A. D. 1885.

Present: Hon. Charles M. Webb, circuit judge.

Judgment.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

This action having come on for trial before the court, on the issues joined therein, at the general term of the circuit court, held at the court-house, in the village of Phillips, in and for the county of Price, on the 28th day of January, A. D. 1885, before the Hon. Charles M. Webb, circuit judge—T. L. Kennan appearing for the plaintiff, Willis Hand, M. Barry and A. R. Mead, Esquires, appearing for the defendants—and the court having heard the proofs and allegations of the respective parties and having thereupon made his decision in writing, which has been filed with the clerk of this court, and having thereby decided that all the material allegations
87 of the complaint herein are true, and that the plaintiff is entitled to the relief demanded in the complaint:

Now, therefore, on the said decisions and the pleadings and proceedings in this cause, on motion of T. L. Kennan, one of the attorneys for the plaintiff, it is—

Ordered and adjudged that all the lands described in the plaintiff's complaint, a list of which is hereto attached and marked "Exhibit A," are a portion of the lands granted to the State of Wisconsin by the third section of the act of Congress, dated May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin;" that the State of Wisconsin,

on or about the 25th day of February, A. D. 1884, duly conveyed all of said lands to the plaintiff herein, whereby the plaintiff then became and still is the owner thereof in fee; that according to the true intent and meaning of said act of Congress above mentioned and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated
88 by said third section of said act of Congress in accordance with the terms of said act and of the acts of the Legislature aforesaid, and said lands did not become subject to taxation until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were so segregated and identified as lands to which the grant applied the grant was a "float;" that all of said lands were assessed for taxation in the town of Worcester and county of Price in 1883, and the amount of taxes assessed and carried out against each description is shown by the exhibit hereto attached; that the lands described in the plaintiff's complaint in this action had, at the time the taxes were so levied and assessed thereon in 1883, been selected as lands to which said grant applied, but said selections had not been approved by the Secretary of the Interior and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents or set apart as lands to which said land grant applied; and said lands were not, at the time they were assessed in 1883, subject to taxation, and all taxes so levied and assessed thereon were and are illegal and void and should be set aside; that when the lands in question had been earned by the plaintiff by the completion of its road and had
89 been patented to it they thereby became relieved of the trust and burden implied in the grant, and the company would hold under the patents with the same right of absolute disposition as lands held by individuals under patents by purchase from the General Government; that after this had been done the title to the ownership of the lands thereby passed not only beyond the control of the United States, but also beyond the control of the State, and the lands became, like other private property, subject to such burdends of government as the State, subject to Constitutional limitations, might, in its wisdom and discretion, impose upon them.

The patents introduced in evidence on the part of the plaintiff are evidence that the lands therein described had then been earned by the plaintiff and are *prima facie* evidence that the plaintiff thereby received a title to said lands in fee; that up to the date of said patents the title was either in the United States or the State of Wisconsin, and the patents being dated February 25th, 1884, rebuts any presumption that the lands were prior to that time subject to taxation, and the burden of proof that the lands were subject to taxation at the time the taxes were levied and assessed thereon rested

upon the defendant; that the evidence offered by the defendant failed to overcome the *prima facie* evidence of the plaintiff; that under the land-grant act of May 5th, 1864, said grant was a "float,"
90 and did not attach to any particular lands until the route of the road had been definitely fixed and the lands had been selected and the selection had been duly approved by the Secretary of the Interior; that as long as the claim of the plaintiff to those lands was not admitted and recognized, but was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by said officers against the will and request of the plaintiff, the lands were not subject to taxation by the State, and no rule of law or equity would require the plaintiff to pay taxes thereon. The fact of the completion of the road some time before the patents issued to the plaintiff is not evidence of any fraudulent practice to prevent the issuance of patents for the purpose of avoiding taxation.

It is further adjudged that under a proper construction of the act of Congress of May 5th, 1864, above referred to, and of the Constitution and laws of the United States and the constitution and laws of the State of Wisconsin, the said lands were not subject to taxation in the year 1883, and the taxes levied and assessed thereon and the return thereof as delinquent by the town treasurer of the town of Worcester were and are illegal and void and should be, and hereby are, set aside as a cloud upon the plaintiff's title.

And it is further adjudged and determined that the defendants be, and they are hereby, perpetually enjoined and restrained from collecting or attempting to collect the taxes so levied and assessed on said lands in the year 1883, and the county treasurer of
91 Price county is perpetually enjoined and strictly prohibited from advertising said lands for sale for the non-payment of said taxes, and each and all of the defendants and their successors in office, agents and attorneys, are perpetually enjoined and strictly prohibited from taking any steps whatever to enforce the collection of said taxes, and the injunction heretofore granted herein is made perpetual.

And it is further adjudged and determined that the plaintiff, The Wisconsin Central Railroad Company, do have and recover judgment against the defendant, Price County, for the sum of $354 *dollars* and 35 cents for its costs and disbursements in this action.

By the court:

N. F. NORLIN,
Clerk of Circuit Court, Price Co., Wis.

92 EXHIBIT "A."

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	* Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 34 north, of range 2 west	--	--	
	* Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* South west quarter (¼) of the northwest quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 35 north, of range 2 west	--	--	
	* Fractional lot 17 of sec. 7, town. 36 north, of range 1 east			
	* Fractional lot 18 of sec. 7, town. 36 north, of range 1 east	--		
			Tax,	1883.
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 16	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
" 17	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 36 north, of range 3 east	--	--	1 58
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 18	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 19	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40

* Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 3 east	--	--	40
" 20	Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	99
93				
" 21	Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	2 96
" 22	Southwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 36 north, of range 1 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 1 west	--	--	2 96
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 1 west	--	--	
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 23	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
" 24	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 36 north, of range 1 west	--	--	99

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 25	Northwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 36 north, of range 1 west	--	--	99
	*North fractional half (½) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 36 north, of range 2 west	--	--	1 98
" 26	Northeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 5, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	1 98
" 27	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
" 28	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	2 96
94	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 36 north, of range 2 west	--	--	3 95
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
" 29	Southwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98
" 30	Northwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	4 93
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	* Northwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	
" 31	Southwest quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 9, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 32	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98.
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 33	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
" 34	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 36 north, of range 2 west	--	--	1 98
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	†
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	2 96
" 35	Southeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
" 36	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 36 north, of range 2 west	--	--	1 98
95	Northeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 37	Southeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98

*Erased in original. † Not on tax-roll.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 38	Southeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 39	Southeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
" 40	Southeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	3 95
" 41	Southeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	4 93
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 36 north, of range 2 west	--	--	3 88
" 42	Fractional lot 4 of sec. 7, town. 37 north, of range 1 east	--	--	99
	Fractional lot 2 of sec. 17, town. 37 north, of range 1 east	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
" 43	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 37 north, of range 3 east	--	--	40
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 37 north, of range 3 east	--	--	†
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	†
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	†
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 37 north, of range 3 east	--	--	40
96	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 37 north, of range 3 east	--	--	59

*Erased in original. †Not on tax-roll.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	40
" 44	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 3 east	--	--	79
	*Fractional lot 1 of sec. 7, town. 37 north, of range 1 west	--	--	
	Fractional lot 2 of sec. 7, town. 37 north, of range 1 west	--	--	99
	*Fractional lot 3 of sec. 7, town. 37 north, of range 1 west	--	--	
" 45	Fractional lot 1 of sec. 15, town. 37 north, of range 1 west	--	--	04
	Fractional lot 5 of sec. 15, town. 37 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
" 46	Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	7 89
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	8 88
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	4 93
" 47	Southeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 3 north, of range 1 west	--	--	7 89
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	4 93
" 48	Southeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
" 49	Southeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
" 50	Southwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) sec. of 21, town. 37 north, of range 1 west	--	--	3 95
97	Northwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	2 96
" 51	Southwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
" 52	Southwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	1 90
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	3 95
" 53	Southwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	3 95
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
" 54	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
" 55	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
" 56	Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	4 93
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	5 92
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 57	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	3 95
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 37 north, of range 1 west	--	--	2 96
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	4 93
" 58	Southwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 1 west	--	--	2 96
	Fractional lot 6 of sec. 3, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
98				
" 59	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 5, town. 37 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
" 60	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
" 61	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	W. ½	2 96
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--		
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	99
" 62	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	3 95
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 37 north, of range 2 west	--	--	2 96
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 37 north, of range 2 west	--	--	
	Fractional lot 3 of sec. 17, town. 37 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Fractional lot 7 of sec. 17, town. 37 north, of range 2 west	--	--	99
" 63	Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 1 of sec. 19, town. 37 north, of range 2 west	--	--	99
" 64	Fractional lot 2 of sec. 19, town. 37 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 19, town 37 north, or range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 37 north, of range 2 west	--	--	99
" 65	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
99	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	2 96
" 66	Northeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	8 88
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	6 91
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 23, town. 37 north, of range 2 west	--	--	5 92
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	
" 67	Northwest quarter (¼) of the northwest quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	4 93
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 25, town. 37 north, of range 2 west	--	--	3 95
" 68	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	1 98
" 69	Northeast quarter (¼) of the southeast quarter (¼) of sec. 33, town. 37 north, of range 2 west	--	--	99

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	5 92
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	4 93
" 70	Southwest quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 35, town. 37 north, of range 2 west	--	--	99
	*Northwest quarter (¼) of the southeast quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 3, town. 38 north, of range 1 east	--	--	
" 71	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
" 72	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
100	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 1 east	--	--	10 85
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 73	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 74	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40

* Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
" 75	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 76	Southeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 77	Northeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
" 78	Northwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 13, town. 38 north, of range 3 east	--	--	40
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 79	Northwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
" 80	Southeast quarter (¼) of the northwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
101	Northwest quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 23, town. 38 north, of range 3 east	--	--	59

* Erased in original.

Exhibit "A"— Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 81	Southeast quarter (¼) of the southwest quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
" 82	Southeast quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 3 east	--	--	59
	Fractional lot 1 of sec. 1, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
" 83	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 1 west	--	--	99
" 84	Northwest quarter (¼) of the northeast quarter (¼) of sec. 9, town. 38 north, of range 1 west	--	--	99
	Fractional lot 8 of sec. 9, town. 38 north, of range 1 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
" 85	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 1 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 2 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 3 of sec. 17, town. 38 north, of range 1 west	--	--	99
" 86	Fractional lot 4 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 5 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 6 of sec. 17, town. 38 north, of range 1 west	--	--	99
	Fractional lot 8 of sec. 17, town. 38 north, of range 1 west	--	--	99
" 87	Fractional lot 7 of sec. 19, town. 38 north, of range 1 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 1 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 88	Southwest quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
102	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 89	Southeast quarter (¼) of the southwest quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
" 90	Southeast quarter (¼) of the southeast quarter (¼) of sec. 1, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 1 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
" 91	Fractional lot 2 of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Fractional lot 3 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 4 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Fractional lot 5 of sec. 5, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
" 92	Northwest quarter (¼) of the southeast quarter (¼) of sec. 5, town. 38 north, of range 2 west	--	--	2 96
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 93	Southeast quarter (¼) of the northwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 94	Southeast quarter (¼) of the northeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
" 95	Southeast quarter (¼) of the southwest quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
" 96	Southeast quarter (¼) of the southeast quarter (¼) of sec. 7, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
108	Southwest quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	2 96
" 97	Southwest quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	1 98
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 9, town. 38 north, of range 2 west	--	--	
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 98	Southeast quarter (¼) of the northeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
" 99	Northwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) sec. of 11, town. 38 north, of range 2 west	--	--	99
" 100	Northwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 11, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
" 101	Northwest quarter (¼) of the northeast quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 13, town. 38 north, of range 2 west	--	--	1 98
" 102	Northeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 108	Northeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 104	Northwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
104	Southeast quarter (¼) of the southwest quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
" 105	Southwest quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 15, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 106	Southwest quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 107	Southwest quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
" 108	Southwest quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98

*Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 17, town. 38 north, of range 2 west	--	--	1 98
	*Northeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southwest quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Southeast quarter (¼) of the northeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	†
	*Northeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the northwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southwest quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
	*Southeast quarter (¼) of the southwest quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	
" 109	Northeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
105	Southeast quarter (¼) of the southeast quarter (¼) of sec. 19, town. 38 north, of range 2 west	--	--	1 98
" 116	Southwest quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 111	Northeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	*Northwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99

* Erased in original. † Not assessed.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
" 112	Northwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 21, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 28, town. 38 north, of range 2 west	--	--	99
" 113	Fractional lot 1 of sec. 25, town. 38 north, of range 2 west	--	--	99
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 114	Northeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 115	Northeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 27, town. 38 north, of range 2 west	--	--	99
" 116	Northeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	*Northwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 117	Northwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98

* Erased in original.

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
106	Southeast quarter (¼) of the northwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 118	Northwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
" 119	Northwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the southeast quarter (¼) of sec. 29, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 120	Southwest quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 121	Southwest quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the northwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 122	Southwest quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Northwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
" 123	Southwest quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southeast quarter (¼) of the southeast quarter (¼) of sec. 31, town. 38 north, of range 2 west	--	--	1 98
	Southwest quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the northeast quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
" 124	Northeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99

Exhibit "A"—Continued.

	Description of the land.	Year of sale.	No. of certificate.	Am't of tax.
				$ Cts.
	Northwest quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Southeast quarter (¼) of the southwest quarter (¼) of sec. 33, town. 38 north, of range 2 west	--	--	99
	Fractional lot 3 of sec. 35, town. 38 north, of range 2 west	--	--	99
" 125	Fractional lot 4 of sec. 35, town. 38 north, of range 2 west	--	--	99
	Fractional lot 5 of sec. 35, town. 38 north, of range 2 west	--	--	99
	* Northeast quarter (¼) of the northeast quarter (¼) of sec. 5, town. 39 north, of range 1 east	--	--	

* Erased in original.

107 [Endorsed:] Circuit court, Price county. Wisconsin Central Railroad Company, plaintiff, against Price County *et al.*, defendants. Judgment. Suit No. 6. Filed April 3, 1885. N. F. Norlin, clerk. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

108 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY TREASURER OF PRICE County, and The County Clerk of Price County, Defendants. } Suit No. 6.

Deposition of Edwin H. Abbot, taken in the above-entitled action before Hugh Ryan, commissioner in and for the county of Milwaukee, in his office, in the city of Milwaukee, in said county, on the 3d day of January, A. D. 1885, at ten o'clock a. m., pursuant to the annexed notice.

COMMISSIONER'S OFFICE,
JANUARY 3D, 1885—10 o'clock a. m.

Plaintiff appeared, by T. L. Kennan, Esquire, its attorney—Willis Hand, Esquire, appearing for the defendants. Plaintiff's attorney filed with the commissioner the annexed notice, with admission of service thereon by defendants' attorneys, dated December 10th, 1884.

Thereupon said EDWIN H. ABBOT, being first duly sworn, testified as follows:

Direct examination by Mr. KENNAN:

First interrogatory. What is your name, age, residence, and occupation?

Answer. Edwin Hale Abbot; upwards of 50 years; resi-
109 dence, Milwaukee; occupation, member of the bar, vice-president of the Wisconsin Central Railroad, and trustee under the mortgage and bonds of that company.

Second interrogatory. Do you know the parties in this suit?

Answer. Well, I know the plaintiff very well as a corporation. Of course, I know something about the defendants.

Third interrogatory. Are you in any way connected with the Wisconsin Central Railroad Company? If so, state in what capacity and how long you have been so connected.

Answer. I have been connected with the Wisconsin Central Railroad Company, in one way or another, as general legal manager, since the company was formed, in 1871. Since January, 1879, I have been the active trustee in charge of the railroad and its property and in possession of the same under the mortgage, with my associate, John A. Stewart, president of the United States Trust Company, at New York. I am familiar with the history and property and affairs of the plaintiff company.

Fourth interrogatory. State whether the Wisconsin Central Railroad Company is entitled to any land by grant from the United States; if so, please explain how.

Objected to as incompetent. Objection overruled.

Answer. The Wisconsin Central Railroad Company is the
110 donee of all the lands granted by Congress in section 3 of the act approved May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and published in volume 13, page 66, of the United States Statutes at Large. The acts of the Legislature of Wisconsin conferring the grant upon this particular company are set forth in the statutes of this State, and the Wisconsin Central Railroad Company has been repeatedly recognized by the Legislature and the Governor as holding all the rights to the grant conferred in this section on the State of Wisconsin for the purpose of aiding in the construction of that railroad, which is now the Wisconsin Central railroad.

Section 3 of the act of Congress of May 5th, 1864, is as follows:

"And be it further enacted, That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Dotty's Island, or Fond du Lac, as said State may determine, in a northwestern direction to Bayfield, and thence to Superior, on Lake Superior, every alternate section of public land designated by odd numbers for ten sections in width on each side of said road, upon the same terms and conditions as are contained in the act granting lands to said State to aid in the construction of railroads in said State, approved June three, eighteen hundred and fifty-six. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed
111 of any sections or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the

same, that it shall be lawful for any agent or agents of said State appointed by the Governor thereof to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tier of sections above specified, as much public land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of pre-emption or homestead has attached as aforesaid, which lands (thus selected in lieu of those sold and to which the right of pre-emption or homestead has attached as aforesaid, together with sections and parts of sections designated by odd numbers as aforesaid) shall be held by said State or by the company to which she may transfer the same for the use and purpose aforesaid: Provided, That the lands to be so located shall in no case be further than twenty miles from the line of said road."

Fifth interrogatory. Now, after the line or route of said road had been definitely fixed and located, did or did it not appear that a portion of the lands so granted within the ten-miles limit had been sold, reserved, or otherwise disposed of by the United States, or that the right of pre-emption or homestead had attached to some of them?

112 Objected to as incompetent. Objection overruled.

Answer. It did appear that a very large quantity of lands had been disposed of before our grant attached. The lands were not withdrawn from the market by the Secretary of the Interior until September, 1869, while the grant had been made on the 5th of May, 1864, and in that period of time a very large quantity of lands had been so appropriated that our grant did not attach to them.

Sixth interrogatory. State whether the plaintiff made a claim for lands in lieu of such as had been so disposed of prior to the taking effect of said grant.

Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. The plaintiff has been engaged in a continuous struggle from the time it began to build its road down to the present time in obtaining, or rather endeavoring to obtain, lands properly coming to it under section 3 of the land-grant act, by which expression I wish to describe the act of May 5th, 1864, which I just read from.

Seventh interrogatory. State what efforts, if any, have been made by the plaintiff to secure patents for lands covered by its grant since the completion of its road, in 1877, or before, including the lands embraced in this suit, of which I hand you a list.

113 Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. It will be more intelligible if I answer this question by a chronological statement of the efforts which have been made. In order to be understood, it is necessary to state that the act of May 5th, 1864, was subsequently extended by Congress so that its provisions were in force and the grant unimpaired, and the time extended for

building the road until the 31st day of December, 1875. The road was not completed through most of Price county for a distance of some ten or a dozen miles until some time in June, 1877. Under the legislation of the State of Wisconsin the system which was recognized by the Legislature and executive department of the State of Wisconsin required the plaintiff to file its lists and get the approval of the Secretary of the Interior Department at Washington before any patents could be issued to the plaintiff. The provisions of the land-grant act rendered the approval of the Secretary of the Interior essential upon those lists, and, without going into the detail of the contests, I would refer to chapter 6, General Laws of 1875, approved February 10th, 1875, which recognized and substantially obliged the plaintiff to obtain patents from the Land Office at Washington as a prerequisite to the State's giving any quitclaim
114 patent of the same lands by the Governor. The provisions of the different land-grant acts are very various, and the act of May 5th, 1864, contains many peculiar and unique requirements.

The Secretary of the Interior, from Secretary Delano down to the present time, has always insisted that the company must obtain patents from the United States before the United States would recognize its rights to enter upon or in any way exercise control over the lands covered by the grant. When the road was finished, in June, 1877, and the plaintiff expected and was endeavoring to obtain the final issue of patents for all its grant, which it believed itself to have earned by the completion of the road, Secretary Schurz adopted for the Land Department at Washington the rule laid down in the opinion of Mr. Justice Davis in the Leavenworth, Lawrence and Galveston case, so called, whereby the opinion of the Supreme Court declared that grants of indemnity—that is to say, grants of land more than ten miles and within twenty miles from the accepted location of the road—were intended to furnish lands in lieu of those only which the United States should have sold within the granted limits—*i. e.*, the ten-mile limits—between the time when the grant was first made and the time when the lands had been withdrawn from market by the General Land Office, and therefore Sec-
115 retary Schurz informed us that, instead of our being entitled to receive any more patents for lands, either in the granted limits or in the indemnity limits, we had already received something like 40,000 acres of land more than the General Land Office considered us entitled to hold, and the Secretary personally informed me that he expected and required us to release to the United States from the lands already patented to us a very large amount of those lands which we had already received. He positively refused to issue to us any more patents for any lands, either in the limits of the lands in place—by which I mean ten-mile limits—or within the limits of the grant of indemnity—by which I mean the lands outside of ten and inside of twenty miles from the location as withdrawn from the records of the Land Office. We had many interviews with the Secretary of the Interior and the solicitor attached to that Department and the Commissioner of the General Land Office, and we were unable to adjust the matter, Secretary Schurz still in-

sisting that under the terms of the original grant the railroad company had already received a great deal more land than the State of Wisconsin or it, as the donee, under section 3 was entitled to receive. This direct refusal and issue having been made between us and the Interior Department, and we finding ourselves unable to obtain any lands whatever, we applied to the executive
116 department of the State of Wisconsin. I personally had many interviews with Governor Smith in the premises. He declared his inability as Governor and the inability of the State to do anything to help us, excepting this: He offered to appoint me attorney for the State of Wisconsin, and give me authority in the name of the State of Wisconsin to take such proceedings as I should deem wise and expedient in any court and before any tribunal or any department in order to obtain the lands which we had earned to be certified to the State of Wisconsin, in which case he declared that he could give us patents. Accordingly I was appointed by Governor Smith attorney for the State of Wisconsin to act in this matter. I went to Washington and made claim upon Secretary Schurz, in the name of the State of Wisconsin, to have the lands which we had earned, which included all the lands covered by this action and a great many more, certified to the State of Wisconsin, if the Secretary was unwilling to order patents of the United States to be issued directly to the plaintiff. He refused absolutely to do so, denying the right of the State of Wisconsin to any lands in consequence of what we had done, beyond the amount of lands we had already received, and he also declared, as he had done before, that the amount of lands we had already received were greatly in excess of those to which we were entitled. I then consulted with
117 eminent counsel in Washington as to the legal possibility of maintaining a writ of mandamus against Secretary Schurz to compel him to certify those lists to the State of Wisconsin. I also examined, in consultation with eminent counsel, the various provisions which allowed original suits to be brought in the Supreme Court of the United States by the State of Wisconsin. But we all agreed, and finally Attorney General Devons himself told me, that it was useless to undertake to compel the Secretary to issue those patents or to certify the lists to the State of Wisconsin.

I then endeavored to get Secretary Schurz to refer the question to Attorney General Devons for advice as to what was the quantity of lands this section 3 conferred upon the State of Wisconsin as trustee to convey to us. Secretary Schurz for a long time refused to make such a reference in any case, aud he absolutely refused to make any such reference in our particular case. Thus the matter stood for a long time.

During the years 1877 and 1878 the great land-grant case entitled "Madison and Portage Railroad Company *versus* The Treasurer of the State of Wisconsin and others," in which all the different donees of all the grants from the United States of lands in Wisconsin were parties, came to a final argument before the full bench of the United States circuit court for the western district of Wisconsin. The litigation in this suit had been

going on ever since December, 1874. The vital question
118 in this case, which was fatal to the plaintiff's claim for lands for building the Madison and portage railroad, was the determination of the *quantum* of lands which passed by the general expression in the land-grant acts, namely, every alternate section of public land designated by odd numbers for ten sections in width on each side of the road. Secretary Schurz held that as to the amount of land granted by the grant in place was only the number of acres of land which the United States owned itself undisposed of at the date of the grant. The effect of that decision would be (instead of given as to the amount in place every odd section for ten sections in width—that is to say, 6,400 acres to the mile) to give, perhaps, not more than five acres for a mile of railroad built. If the United States, for instance, owned at the time when the grant was made by Congress only five acres not previously disposed of, then Secretary Schurz held that the railroad took only five acres for building that mile of road, and if subsequently to the date of the grant the United States sold one of those acres before the lands were withdrawn from market, then, under the indemnity grant, the railroad would be entitled to receive only one acre in indemnity and no more.

Defendants' counsel moved to strike out the evidence in reference to this case of the Madison and Portage Railroad Company on the ground that it is incompetent, immaterial, and irrelevant.
119 Motion overruled.

Deponent continuing: The great question, therefore, in the Madison and Portage railroad case at its threshhold was, How much land was covered by the granting clause? That case was argued by the most eminent counsel in the State of Wisconsin.

Defendants' counsel objected to any further evidence touching the Madison and Portage railroad case. Objection overruled.

Defendant continuing: Mr. S. N. Pinney, of Madison, contended that Secretary Schurz' ruling was right. On the other hand, Col. Vilas, Mr. I. C. Sloan, J. C. Spooner, A. Scott Sloan, and myself contended that the rule laid down by Secretary Schurz was wrong. The arguments were made in September, 1879. The court held that question under advisement for a considerable time, and finally Mr. Justice Harlan, on the 28th day of October, 1879, filed an opinion in that court, in which he decided against the ruling of Mr. Secretary Schurz. This decision was the first decision by any United States court directly upon this question, and adversely to what the counsel have always contended were the dicta of Mr. Justice Davis in the Leavenworth, Lawrence, and Galveston case, but which Secretary Schurz contended was the opinion of the court and not the dicta of the justice who read the opinion. When this Madison and Portage de-
120 cision was made I renewed my efforts in the Interior Department to get Secretary Schurz to adopt the rule laid down in that case by Mr. Justice Harlan.

Eighth interrogatory. State what further efforts you made to pro-

cure a ruling from the Secretary of the Interior in accordance with the decision of Mr. Justice Harlan.

Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. Finally, after Justice Harlan had given this decision, I renewed my application, as I have stated, to the Interior Department to reverse the practice established by Mr. Secretary Schurz, which was fatal to the claim, either of the State of Wisconsin or the plaintiff, to any more lands; and so many other railroads were interested in the same question that finally Secretary Schurz was induced to refer the question to Attorney General Devons for his action. The case in which Mr. Devons was to give his opinion was in the matter of the right of the State of Minnesota to receive from the United States under similar acts, for the benefit of the Western railroad, the full quantity of ten sections per mile of public lands along the line of the constructed road. On the 5th of June, 1880, Attorney General Devons gave an opinion to the Hon. Carl Schurz, which is undoubtedly reported in the opinions of the Attorney General, in which he advised the Secretary that his practice should be abandoned and the Department should recur to the rule and method of administering the railroad grants which had obtained prior
121 to Mr. Schurz's coming into office, March, 1877. Prior to Attorney General Devons' giving that opinion I learned that the question was before him. I at once applied for leave to be heard in behalf of the State of Wisconsin and as its authorized attorney, and to argue in the matter of the quan-ty of land which passed to the State of Wisconsin under the 3rd section of our land-grant act. In accordance with my request, Attorney General Devons allowed me to submit a printed argument for and in behalf of the State of Wisconsin, a copy of which I now produce.

Plaintiff's counsel offered the copy in evidence. Objected to as incompetent, immaterial, and irrelevant. Objection overruled. Copy admitted and marked "Exhibit A."

Deponent continuing: This argument of mine brought before Attorney General Devons the Madison and Portage railroad decision of Justice Harlan, and I filed with the Attorney General a certified copy of Justice Harlan's decision, and great stress is laid by the Attorney General in his letter of advice to Secretary Schurz upon the decision of Mr. Justice Harlan in the Madison and Portage railroad case. Secretary Schurz did not accept the opinion of Attorney Devons in the particular case, in which he had called for advice—that is, the Minnesota case—until the 16th day of October, 1880, and then he permitted it to be adopted in that par-
122 ticular case; but he still refused to make any general rule or to allow us to take our patents under section 3d, but left substantially the whole matter of indemnity lands undisposed of when he went out of office.

When the new administration came in, in 1881, the new Secretary of the Interior rejected the opinion of Attorney General Devons

and refused to permit the Land Office to act in accordance with it, and Secretary Teller during the whole time of his administration has insisted upon the same rule which Secretary Schurz had adopted prior to the 16th day of October, 1880; in other words, he refused to issue patents to us either in indemnity limits or in granted limits. The whole question of the *quantum* of grant, which is discussed by Justice Harlan and by Attorney General Devons in the opinion I have just referred to, was again argued by me very elaborately in conjunction with the counsel of the Achison, Topeka and Santa Fé Railroad Company in a case arising under their grant, and a very full and complete printed brief was filed with Secretary Teller at that time. This last argument was held in the early summer of 1883; but Secretary Teller still refuses to act on our application and still refused patents to us and refuses to decide the question of the right of the State of Wisconsin as well as our right to any patents.

123 When I first discovered that the defendant in this case had undertaken without any notice to us to assess taxes upon these lands—a fact which was entirely unknown to me or to any of our Land Department officials until a comparatively few months ago—I again went to Washington and urgently pressed the Secretary to issue patents to us and to settle the question finally; but he absolutely refused to take up the matter, either in regard to grant in place or grant in indemnity, and he asserted the right of Congress to forfeit our entire grant because the Wisconsin railroad had not been entirely finished prior to the 31st day of December, 1876; and inasmuch as bills were pending and had been pending in Congress for the last session or two to forfeit the grant of the Wisconsin Central railroad, as well as many other land-grant roads, he absolutely declined, until Congress should have settled this matter of forfeiture, to take any action whatever in regard to our application. He would neither approve lists of lands nor give any ruling, but simply left the matter undecided, and we could not compel him to act or the General Land Office to act. The excuse he gave was nominally that the matter could not be taken up yet. We have continued our efforts at Washington and employed counsel and I have personally given great attention and taken great trouble in this matter, but have as yet failed altogether to induce the

124 Interior Department to perform what I believed to be its duty under our land-grant acts, acting in the name and behalf of the State of Wisconsin as its authorized attorney.

Finding that it was impossible to get any action under the course of procedure which had hitherto been adopted by the State of Wisconsin and ourselves in reference to the patenting of lands to us under the grant, we made a desperate appeal to Governor Rusk to give us patent from the State, although the United States had not given us any patent. Previous to this time the State of Wisconsin had always refused to give us any patents for lands which had not been previously patented to us by the United States. The patent from Governor Rusk was obtained only after long and repeated arguments, in which I was assisted by eminent counsel; and finally

the reason on which they were given to us was, as the Governor expressed it, the manifest injustice of allowing parties to go in under the color of tax title when we had no legal status to interfere with them, and of permitting them to strip the lands of their timber simply because we had no standing in court to turn them out.

That is the general history of our efforts to obtain patents for our lands.

Ninth interrogatory. Have you the commission that was issued to you by the Governor, which you have mentioned in your
125 *in your* testimony, with you?

Answer. I have not that commission now with me. I have a formal appointment as attorney for the State of Wisconsin, signed by Governor Smith and issued under the great seal of the State of Wisconsin, which I used at Washington before the Secretary of the Interior and the Attorney General, but I either left it on file in the Interior Department at Washington or else I have mislaid it among my papers in our recent removal of offices. I will endeavor to find it and give it to you to produce in this action if it is in my possession.

Plaintiff rests.

Cross-examination by Mr. HAND:

First cross-interrogatory. Have you ever made any application for patents for lands described in the complaint in this action?

Answer. Yes.

Second cross-interrogatory. When?

Answer. I cannot give the dates. My dealing was not with a particular lot of lands; it was with all the lands which we conceived ourselves to have earned by building the road. The details of the descriptions, &c., I leave to the special land department.

Third cross-interrogatory. Did you ever make any written application for these lands?

126 Answer. Application was made by my direction by filing our lists for Secretary's approval. The matters which I attend to are the general matters, and no question of mere application for specific sections has had my particular attention. The Secretary of the Interior and the Governor of the State and the General Land Office at Washington have been, so far as I have been personally connected, applied to for all the lands we believed ourselves to have earned by building the road. The descriptive lists and formal application I have not the details of myself, because they are attended to by the land commissioner and the clerks in our land office.

Fourth cross-interrogatory. Were the applications that were made for patents made in writing?

Answer. Yes; I am so informed and believe. There are lists and applications to-day on file in the Interior Department for our lands in Washington. These are the lists which the Secretary of the Interior has steadfastly refused to approve or, rather, to act upon, and which are the proper basis for the issue of any patents by the State or the United States to us.

Fifth cross-interrogatory. No patents, then, could be issued without there being a written application on file?

Answer. That is a matter of law which I am not called upon to decide.

127 Sixth cross-interrogatory. Has it been the custom in applying for patents to make application for patents upon written lists?

Answer. Certainly.

Defendant's counsel moved to strike out all the evidence on application for patents on the ground that verbal evidence for such applications is incompetent. Motion overruled.

Seventh cross-interrogatory. You have stated in your direct examination that a certain part of railroad in Price county was uncompleted December 31st, 1876. Are you positive that it was in Price county?

Answer. To the best of my information and belief, it is in Price county.

Eighth cross-interrogatory. Is it not a fact that it is between Butternut and Glidden?

Answer. Well, I am not sufficiently conversant with the situation and the lines to state positively. I had the impression that it was in Price county.

Ninth cross-interrogatory. There is a record of that, is there not—records showing when these section miles were completed, are there not?

Answer. I don't know. I think this is a matter which largely rests in the personal recollection of parties who were building the road—as to the time when particular portions of it were exactly finished. Still I have never kept any records myself of such portions with dates.

128 Tenth cross-interrogatory. You don't know, then, just what part of the road was uncompleted?

Answer. I know generally where it was from my general knowledge of the property.

Eleventh cross-interrogatory. You don't know specifically?

Answer. I cannot fix it within particular lines. I have no doubt it can be fixed by those who have the knowledge.

Twelfth cross-interrogatory. Did the Secretary of the Interior refuse to issue patents upon lands lying contiguous to the portion of the road completed up to December 31, 1876?

Answer. He did, and does to-day; and he asserts the right of Congress to forfeit all those lands in grant as well as in place, and refuses to act at all until Congress has taken action.

Thirteenth cross-interrogatory. Is there any regular evidence at all?

—. Not to my knowledge, further than appears in the general records of that Department. These applications of which I speak are the personal applications that are made by parties who come to him and urge him to order patents to issue on our lists, but which he declines to order. He does not act like a corporation. He is an

executive officer, doing his work personally—not by votes and records—very largely.

129 Fourteenth cross-interrogatory. Has he filed any written opinions with reference to these points?

Answer. The present Secretary I am not aware has filed any in our case. Secretary Schurz, on the 16th of October, 1880, wrote a letter to the Commissioner of the General Land Office based upon the opinion of Attorney General Devons, dated June 5th, 1880. That letter is printed in the Washington Law Reporter, volume 8, No. 43, page 679, published at Washington on October 25, 1880. The Washington Law Reporter is, by order of the supreme court of the District of Columbia, the paper in which all legal notices have to be published.

Fifteenth cross-interrogatory. And also opinions of the Secretary of the Interior?

Answer. As a matter of fact, they are published and gotten up chiefly for the use of the Department. I have the opinion in that shape.

Sixteenth cross-interrogatory. Whose opinion is that?

Answer. The letter of instructions of October 16th, 1880, by Secretary Schurz to the Commissioner of the General Land Office. Possibly that may have been in the last volume of Cop's Land Laws. When the opinions accumulate sufficiently to make another volume they are generally printed in that series of land laws.

130 Seventeenth cross-interrogatory. Well, then, the official opinions of the Secretary and of the Attorney General are a matter of record, are they?

Answer. They doubtless are matter of record in their separate departments, and I have referred you to them. The opinions of the Attorneys General are published in volumes for the use of the Government of the United States, and are obtainable like any other law book or book of reports.

Defendant's counsel moved to strike out all the deponent's evidence in this deposition with reference to the opinions and rulings of the Attorney General and Secretary of the Interior upon the plaintiff's application for patents on the ground that such evidence, being verbal, is incompetent, immaterial, and irrelevant.

Eighteenth cross-interrogatory. I understood you to say that the new secretary, Secretary Teller, adopted Attorney General Devons' opinion.

Answer. You misunderstood me entirely; Secretary Teller rejects it. Secretary Schurz, in the letter that I have referred to, of date of October 16th, 1880, permitted that case to be decided in accordance with it, so far as he states in that letter of October 16th, 1880; but he refused to apply the principles of Attorney General Devons' opinion to other cases then pending and left the matter for his successor. His successor rejected Attorney General Devons' opinion altogether and stands to-day upon the doctrine laid down in the opinion and

131 words of Mr. Justice Davis in the Leavenworth, Lawrence, and Galveston case—sometimes called the Osage land-grant

case—which involved the disposition of the lands granted to the Osage Indians.

Nineteenth cross-interrogatory. Has the company ever obtained any patents from the General Government upon the lands described in the complaint in this action?

Answer. I am unable to state from personal knowledge, because all these matters are matters of detail in the Land Department. As to particular sections, whether we have patents for particular sections, I cannot tell without examining the — Land Department. My impression is, though, that all these lands covered in this case, to the best of my information and belief, are lands, with the exception of, perhaps, about five sections, which come within the indemnity limits, and as to those indemnity limits and the limits in place I presume they are now covered by the patent from the State of Wisconsin.

Twentieth cross-interrogatory. You state that the company went to the Governor to obtain patents on failing to get them from the General Government. Were patents then issued upon these lands involved in this action by the State?

Answer. Governor Rusk considered that we were subjected
132 to grievous injustice, having these lands stripped by parties under color of tax title from Price county and other municipalities along the line, and he took the responsibility of issuing to us patents upon lands in advance of their being patented to us by the United States, in order that we might have a standing in the courts and come in and protect ourselves.

Twenty-first cross-interrogatory. Were those patents of these lands in this complaint?

Answer. I cannot state from positive knowledge, but my impression is that those lands are covered by the patent which Governor Rusk gave. The patent itself will show. If you object to anything not in writing the comparison of that patent will show. I do not pretend to be familiar with five or six hundred thousand acres of land.

Twenty-second cross-interrogatory. What I wish to get at is, that the lands in this complaint are the ones on which you obtained patents from the State?

Answer. Well, I suggest that you compare these lands with the patent itself.

Twenty-third cross-interrogatory. The question is whether you got the lands from the State because you could not get the patent from the General Government on them?

Objected to as incompetent, irrelevant, and immaterial. Objection overruled.

133 Answer. We got the patent from the State in order to have some legal standing in court and to protect ourselves and because we had not any from the General Government. If we had had patent from the General Government in accordance with the former action of the State the State would have given us a patent. It was the first time they gave us a patent without previously requiring us to have a patent from the United States. We were in a

perilous condition. The United States refused to patent these lands to us and we had no standing in court to prevent parties who came in under color of a pretended tax deed from Price county and others, and were unable to prevent them from stripping the land of the timber, which is its only value. We were obliged to stand by without interfering unless the State gave us a patent. The grant was killed, its value entirely destroyed, and we could not otherwise save it from waste by trespassers under color of title.

Twenty-fourth cross-interrogatory. When did you last apply in person to the Secretary of the Interior for a ruling in regard to these lands?

Answer. I cannot fix the date exactly, but my recollection is that it was at the date of our last argument on the *quantum* of land.

Twenty-fifth cross-interrogatory. When was that?

134 Answer. About May or June, 1883. The date will be fixed exactly by the date of the patent from the State. I went directly to Madison from Washington. It was shortly after Secretary Teller's refusal to do anything for us whatever, and his refusal to order the Commissioner of the General Land Office to take the case up or to send our lists on the *the* same for his approval or to do anything that I then went to Governor Rusk and applied to him, and within two or three weeks Governor Rusk finally consented to issue the patents from the State to us. My last interview with Secretary Teller on this topic was shortly before the date of that patent from the State to us.

Twenty-sixth cross-interrogatory. No application, then, has been made by the company since that time for a patent?

Answer. Our application is a continuous one, and our lists are lying now in the General Land Office at Washington and waiting for the approval of the Secretary of the Interior. Our attorney is ready to press the matter whenever there is a chance. We can do nothing more, after the peremptory and absolute refusal that was given us by Secretary Teller, to take up the matter, notwithstanding three or four Senators of the United States went with us. Senator Sawyer must have gone with me half a dozen times to see the Commissioner of the General Land Office and Secretary Teller

135 to induce him to take some action and at least to give us patents for some portion of the lands where we found out that these tax titles had been issued behind our backs; but, notwithstanding all the personal application and political pressure that could be brought to bear upon the Secretary, he refused absolutely to permit the lists even to be brought before him for his approval, and the lists are lying in the General Land Office awaiting attention now.

Defendant's counsel moved to strike out all the evidence relating to application for patents from the General Government contained in this deposition, on the ground that it is incompetent, immaterial, and irrelevant. Motion overruled.

Defendant rests.

Adjourned until Tuesday, January 6, at 10 o'clock a. m.

COMMISSIONER'S OFFICE, *January* 6, 1885—10 a. m.

Plaintiff appeared by its said attorney. No appearance by defendants. Deposition read over and signed by witness.

EDWIN H. ABBOT.

Filed Jan. 12th, 1884. N. F. Norlin, clerk cir. c't.

136 EXHIBIT 1. Jan. 3, '85. Hugh Ryan, Court Commissioner, Mil. Co., Wis.

Argument of Edwin H. Abbot, Attorney for the State of Wisconsin.

In the matter of the quantity of land which passes to the grantees from the United States under such acts of Congress as those of March 3, 1857, and March 3, 1865, to the State of Minnesota.

137 In the matter of the quantity of land which passes to the grantees from the United States under such acts of Congress as those of March 3, 1857, and March 3, 1865, to the State of Minnesota.

To the Honorable Charles Devens, Attorney General of the United States.

SIR: Having learned that you now have under advisement the question as to what amount of land the United States intended that the State of Minnesota should receive under the acts of March 3, 1857, and March 3, 1865, whether by virtue of the original words of grant or by virtue of the indemnity provisions, I beg leave, as the attorney for the State of Wisconsin, to submit in behalf of that State, which is interested in the same question under the acts of Congress entitled, "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved June 3, 1856, and May 5, 1864 (11 U. S. Statutes, 20, and 13 U. S. Statutes, 66), the following suggestions:

First. This precise question arose in the case of the Madison and Portage Railroad Company *vs.* Treasurer of State of Wisconsin and and Railroad Companies, in the circuit court of the United States for the western district of Wisconsin. The case involved the division of these grants among seven claimants, and its magnitude and the importance of the question involved induced the full bench
138 of that circuit, Mr. Justice Harlan, Circuit Judge Drummond, and District Judge Bunn, to meet the counsel in Boston last September and hear arguments which occupied ten days. The quantity of lands which the State had for division was the first point to be ascertained, and as the acts themselves vested in Wisconsin an estate, by words of grant *in præsenti*, the quantity of land which so passed to the State depended upon the effect of the granting words and the indemnity provisions construed together. The new practice of the Interior Department, based upon the dicta in the Leavenworth, Lawrence and Galveston case, was vigorously contended for by one of the respondents, while the other parties argued

in support of the interpretation which had been given by the Department to such grants during the twenty previous years. The question was most elaborately presented in all its aspects and the court unanimously decided in favor of the old practice and against the lately adopted rule of Mr. Secretary Schurz. Mr. Justice Harlan delivered the judgment of the court in the following words:

"Some question has been made as to the precise extent of the grant under the two acts of Congress. We understand that it covers six sections in width on each side of the line, in the one case, and ten sections in the other, of lands in place, as they existed on the ground, so that if any of these sections were fractional or from any cause were not full sections the State could not make up the deficiency from lands in the indemnity limits, because, as to the lands in place, the act operates directly by specific description, but when there was not land in place to meet the call of the grants, whether the deficiency was more or less, it was competent to supply it by sections from the indemnity limits; or, if, as might happen, there were parts of sections of the lands in place excluded from the grants by the terms of the acts, it was competent to supply the deficiency from the indemnity limits by a similar legal subdivision of the
139 land. It would seem to be impracticable to administer the trust on any other basis. It supplying deficiencies it must be by sections, whether full or fractional, and by legal subdivisions. Deficiencies in place limits caused by sales or pre-emptions previous to the location of routes, whether before or after the passage of the acts, may be supplied from the indemnity limits."

I transmit herewith a certified copy of the full opinion of Mr. Justice Harlan. The words above quoted, however, are all which apply to the present question.

The last clause was added in manuscript after it had been printed, and I am informed by one of the judges that this addition was made in order to prevent any possible inference of ambiguity from the previous expressions of the court on this point, and to show that the dicta of Mr. Justice Davis, on which the Interior Department had relied, were not accepted by the court as law in this case.

This decision is entitled to peculiar consideration from the circumstances under which it was made and the unusual composition of the court which rendered it. The cause was deemed so important that two of the judges consented to travel some twelve hundred miles in order to hear it and take part in its decision; and when that decision was reached it was the concurrent judgment of the whole court, not the opinion of a single judge or even of the learned presiding justice alone. It is one of the very rare cases where a full bench of a United States circuit court has sat in banc.

Second. The old rule was adopted in construing the first land grant to Illinois under act of September 20, 1850.

Attorney General Crittenden, March 10, 1852, 5 Opin. Att'y Gen., 518.

It was followed during a period of twenty years in admin-
140 istering not less than fifty grants made by the United States

in aid of internal improvements. They were uniformly regarded and executed by the Land Office as grants of quantity—*i. e.*, grants which entitled the donee to receive out of the limits in place or indemnity the equivalent of x x 640 acres per mile of railroad built. Thus, "six sections" meant 3,840 acres, and "ten sections" meant 6,400 acres to the mile, if the sections actually in the place limits were full, not fractional, sections All parties acted upon this understanding. It was assumed by the Attorneys General in their opinions, Congress in its acts, the Departments in their rulings, and by the State courts in their decisions to be the meaning of these grants, and this construction became a rule of title in real property, upon faith in which millions of dollars have been expended in railroad construction.

Attorney General Crittenden, August 7, 1852, 5 Opin. Att'y Gen., 603.

Letter of Secretary Thompson, Nov. 7, 1857, 1 Lester Land Laws, p. 526, No. 558.

Attorney General Black, June 3, 1859, 9 Opin. Att'y Gen., 346.

Veeder *v.* Guppy, 3 Wis., 502.

Secretary Delano, Nov. 15, 1871, Copp's Land Laws, p 382, No. 402.

Many other citations might be given of similar recognition of this practice of the Land Office, but it is needless, for the universality of the practice is notorious. It comes fully within the rule which the Supreme Court has laid down in the case of United States *v.* Burlington and Missouri R. R. Co., in reference to a practical construction of much shorter duration, which the Supreme Court regarded as conclusive in the interpretation of the Pacific railroad acts.

"It was the intention of Congress, both in the original
141 and amendatory acts, to place the Union Pacific Company and all its branch companies upon the same footing as to land, privileges, and duties to the extent of their respective roads, except when it was otherwise specially stated. Such has been the uniform construction given to the acts by all departments of the Government. Patents have been issued, bonds given, mortgages executed, and legislation had upon this construction. This uniform action is as potential and as conclusive of the soundness of the construction as if it had been declared by judicial decision. It cannot at this day be called in question."

U. S. *vs.* Burlington & Miss. R. R. Co., 98 U., 334, 341.

Third. Congress in its legislation *in pari materia* has given its legislative construction of these grants to the same effect. The instances might be multiplied, but one is sufficient to illustrate the character of this legislative declaration, or, rather, assumption, of an undisputed construction.

Congress granted, in the same terms as to Wisconsin, certain lands to Iowa by act of May 16, 1856, and then amended and construed the grant in the act of June 2, 1864, by words in the second section, which are an unmistakable legislative declaration that the original

grant was one of quantity according to our contention and the old rule of the Land Office. The terms of the first grant of September, 20, 1850, to Illinois contain a legislative explanation of the quantity of land which it was intended the grantee should receive, and that explanation may well be taken to run with all similar grants.

It cannot be doubted that Congress did not intend to favor one State in its grants and discriminate against other States. It presumably intended to treat all the States alike in the distribu-
142 tion of the public domain in aid of public improvements. Having once declared in the grant to Illinois that certain phrases gave lands "equal in quantity to one-half of six sections in width on each side of said road and branches," the subsequent use by Congress of the substantially similar language in other acts may reasonably be taken in the same broad sense.

Fourth. In 1864 and 1865 the land grants, made originally in aid of railroads for 6 miles in place and 9 miles in indemnity, were most of them enlarged to 10 miles in place and 20 miles in indemnity. If the indemnity was created merely to supply the deficiency in land arising from sales by the United States out of the six-mile limits after the date of the grant, why were the indemnity limits made fifty per cent. larger than the entire limits in place? And why were they afterwards increased?

Fifth. I respectfully submit that the land-grant acts are laws which declare the intention of Congress to give to the donee, first, the actual land which the United States owned in "every alternate section" at the date of the grant as it then lay on the ground; and, second, a right to receive an additional quantity of land in the indemnity limits (unless sooner exhausted) sufficient to supply the deficiency in each such section as it lay on the ground, if the United States had ever "sold, reserved, or otherwise disposed of" anything out of that section.

These acts cannot be separated into parts like a deed, and one portion be taken alone, by itself, as a "granting clause," another as a covenant, and the like. These acts are laws as well as grants, and the intention of Congress is only to be declared and effectuated by comparison of all the parts and construing all together as one law.

Sixth. The absolute uncertainty and confusion which would arise practically upon the theory of the new rule would defeat the purpose of the acts, which on their face is avowed to be "to aid
143 in the construction" of public works and is judicially held to be their paramount object. This declared purpose the Supreme Court has held to throw the clearest light on the intent of these acts, and to be sufficient reason for rejecting any construction which would defeat that purpose.

Platt *v.* Union Pacific Railroad, 99 U. S., 48.

I venture to submit these suggestions chiefly to lay before the Department of Justice the unreported decision of Mr. Justice Harlan. I ask the indulgence of the Honorable Attorney General for their exceeding incompleteness, as he is aware of the peculiar circumstances

of pressure and haste under which their preparation is forced, and subscribe myself, with great respect,

Your obedient servant,

EDWIN H. ABBOT,
Attorney for the State of Wisconsin.

144 [Endorsed:] Filed Jan. 12, 1885. N. F. Norlin, clerk of court. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

145 Form No. 243.

Notice of Taking of Deposition within the State of Wisconsin—R. S., 4100, 4101, & 4102.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
vs.
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Def'ts. } No. 6.

To Willis Hand, Esq., attorney for the def't- above named.

SIR: Please take notice that the deposition of Edwin H. Abbot, a witness to be produced, sworn, and examined on behalf of the plaintiff above named, will be taken, at the instance and on behalf said plaintiff, before Hugh Ryan, Esq., a court commissioner in and for the county of Milwaukee and a person by law authorized to take depositions, at his office, No. 110 Wisconsin street, in the city of Milwaukee, county of Milwaukee and State of Wisconsin; that the taking of said deposition will be begun before said officer on the third day of January, A. D. 1885, at 10 o'clock a. m., and will be continued at such other time or times as the taking of said deposition shall be adjourned to by the order of the aforesaid officer or by consent of the parties hereto until completed; that you are hereby notified and requested to appear before the said officer at the place and on the day and hour above named and cross-examine said witness in such manner or take such other proceedings as you shall deem proper. You are hereby further notified that the deposition of said witness is wanted by the said plaintiff for use in a civil action now pending in the State of Wisconsin, to wit, in the circuit court of Price county, wherein the Wisconsin Central Railroad Company is plaintiff and Price County is defendant; that said witness, Edwin H. Abbot, is about to go out of the State of Wisconsin and does not intend to return thereto in time for the trial of said action and lives more than thirty miles from the place of trial of said action in which the testimony of said witness is wanted,* and that this is the reason for taking the deposition of said witness, and that said plaintiff will claim the right to use the said deposition, when taken, on any trial that may be had of said action, subject only to

such legal objections as may be made to the competency, relevancy, or materiality of the evidence therein contained.

Yours, etc., E. H. ABBOT,
Attorney for Pl'ff.

Dated December 1, A. D. 1884.

* Other clauses for taking deposition of witness are given in R. S., § 4101.

146 [Endorsed:] Circuit court, Price county. Wisconsin Central R. R. Co., pl'ff, *vs.* Price Co. *et al.*, def'ts. Notice of taking deposition. No. 6. Due service of a copy of the within notice is admitted this 10th day of December, 1884. Willis Hand, att'y for def'ts. Circuit court, Price Co. Filed January 12th, 1884. N. F. Norlin, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

147 STATE OF WISCONSIN, } ss:
Milwaukee County, }

I, Hugh Ryan, a court commissioner in and for said county, do hereby certify that the above deposition of Edwin H. Abbot was taken before me at my office, in the city of Milwaukee, in said county, on the third day of January, A. D. 1885, at ten o'clock in the forenoon: that it was taken at the request of the plaintiff upon verbal (or written) interrogatories; that it was reduced to writing by Shimwell, a disinterested person, in my presence and under my direction; that it was taken to be used in the action wherein Wisconsin Central Railroad Company is plaintiff and Price County, the County Clerk of Price County, and the County Treasurer of Price County are defendants, now pending in the circuit court of Price county, and that the reasons for taking it were that said witness, Edwin H. Abbot, is about to go out of the State of Wisconsin, not intending to return in time for the trial of said action, and because said witness lives more than thirty miles from the place of trial of said action; that a notice, of which the annexed is a copy, was served upon Willis Hand, Esq., attorney for the defendants, on the 10th day of December, A. D. 1885; that said plaintiff attended at the taking of said deposition by T. L. Kennan, Esq., one of its attorneys, and the defendants, by Willis Hand, Esq., their attorney; that said deponent, before examination, was sworn to testify the truth, the
148 whole truth, and nothing but the truth relative to said cause, and that said deposition was carefully read by said deponent and then subscribed by him in my presence.

Dated January 10, 1885.

HUGH RYAN,
Court Commissioner, Milwaukee County, Wisconsin.

Fees:

60 fols.	$7 20
1 day	3
Swearing witness	10
Filing papers	12
Postage	20
	$10 62

Paid by pl'ff.

(Endorsements:) Deposition of Edwin H. Abbot and return of commissioner. Fees, $10.62; paid. Filed Jan. 12th, 1884. N. F. Norlin, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't.

149 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Def'ts. } No. 6.

It is hereby stipulated by and between the above-named parties that the depositions of the following-named persons, at the times and places hereinafter stated, may be taken to be used on the trial of the above-entitled cause on the part of the defendants, viz:

C. M. Foresman and L. J. Rusk, at the office of F. W. Hall, notary public, in the city of Madison, Dane county, Wisconsin, on Thursday, December 4th, 1884, at ten o'clock a. m.

E. B. Sanders, at the office of Alex. Craven, notary public, in the city of Wausau, Marathon county, Wis., on Friday, December 5th, 1884, at 4 o'clock, p. m.

Alex. Meggett, at the office of Chas. S. Roberts, a justice of the peace, in the city of Eau Claire, in Eau Claire county, Wis., on Tuesday, December 9th, 1884, at nine o'clock a. m.

It is further stipulated that a copy of this stipulation shall be filed with each such officer before whom depositions are to be taken, and returned with such depositions.

150 Dated Nov. 14th, 1884.

WILLIS HAND,
Def'ts' Att'y.
E. H. ABBOT,
Att'y for Plaintiff.

(Endorsements): Stipulation to take depositions. Copy. Filed Dec. 8th, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis. Filed 30 Nov., 1884.

WISCONSIN CENTRAL RAILROAD COMPANY

vs.

PRICE COUNTY *et al.*

Deposition in the above-entitled case of E. B. Sanders, taken before me at my office, in the city of Wausau, Marathon county, Wis.

E. B. SANDERS, being first duly sworn, testified as follows:

Q. Where do you reside?
A. At the city of Wausau, Wisconsin.
Q. What is your age?
A. 35 years.
Q. What is your position?
A. I am receiver of the Gov't land office, located at Wausau, Wis.
Q. How long have you held that position?
A. Since February, 1883.
Q. What is this paper (showing witness paper marked "Ex. A" and attached hereto)?

151 A. A certified copy of a letter from the Commissioner of the General Land Office wit-drawing certain lands from sale for the benefit of the Portage, Winnebago & Superior R. R., under the act of May 5, 1866, 3rd sec., & joint resolution of 21st June, 1866.

Q. State whether or not there is a record in your office of the withdrawal of the lands mentioned in that letter.

Objected to as incompetent, irrelevant, &c.

A. There is a record in the land office for the Wausau district, of which I am the receiver, of the receipt and acknowledgment of the letter referred to, of which this is a certified copy, withdrawing the lands in question for the benefit of said railroad, which was accompanied by a diagram indicating the ten and twenty mile limits within which the lands owned by the United States on the odd-numbered sections were located. The plat books of the office were marked to correspond with the lines on said diagram indicating said ten and twenty mile limits.

Q. State whether or not the odd-numbered sections referred to in said letter have been in the general market and open to public sale since that time.

Objected to; same as before.

A. There is no record to my knowledge in the land office of the restoration of any of the withdrawn lands to private entry or public sale.

E. B. SANDERS, *Receiver.*

152 (Endorsements:) Filed Dec. 8th, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

Railroad Record, "Ex. A," vol. 4, page 289.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *December* 10*th*, 1869.

Register & receiver, Stevens' Point, Wis.

GENTLEMEN: I inclose herewith a diagram of the Portage, Winnebago & Superior railroad, under act May 5, 1886, 3rd section and joint resolution, 21 June, 1866, with the 10 & 20 mile limits of the land grant designated thereon.

You are hereby directed to withdraw from sale or location, pre-emption or homestead entry, all the odd-numbered sections of land falling within those limits and to regard as increased in price to $2.50 per acre all the even-numbered sections within the 10-mile or granted limits.

The even sections between the 10 & 20 mile limits are not affected by this withdrawal.

153 The lands herein increased to $2.50 per acre you will dispose of only under the pre-emption & homestead laws and at that ratability, except in case of *bona fide* pre-emption settlements, prior to the receipt of this letter of withdrawal. In such cases the settler will, under the provisions of the act 27 March, 1854, be permitted to prove up and pay for his land, whether upon odd or even section-, at 1.25 per acre.

This order will take effect from the date of its receipt by you, and you are requested to acknowledge the same by date.

Very respectfully, JAS. WILSON,
Commissioner.

(Endorsements:) Ex. A, commissioner's letter, December 10, 1869. Transmits diagram of the line of the Portage, Winnebago & Superior railroad and showing the 10 & 20 mile limits. Received January 10, 1870; acknowledged Jan'y 10, 1870.

U. S. LAND OFFICE, WAUSAU, WIS., *December* 5, 1884.

I hereby certify that the within and foregoing is a true and correct copy, including notations and briefing, of the original letter on file in this office, and that I have compared it with the original, & that it is a true copy of the whole thereof.

E. B. SANDERS, *Receiver.*

Filed Dec. 8th, 1884.

CHARLES H. DARLINGTON,
Clerk Cir. C't.

Filed Jul. 17, 1885.

CLARENCE KELLOGG,
Clerk, Sup. C't., Wis.

154 STATE OF WISCONSIN, } ss:
Marathon County, }

I, Alex. Craven, a notary public in and for said county, do hereby certify that the above deposition was taken before me, at my office,

in the city of Wausau, in said county, on the 5th day of December, 1884, at four o'clock in the afternoon; that it was taken at the request of the defendants, upon verbal interrogatories; that it was reduced to writing by myself; that it was taken to be used in the action of the Wisconsin Central Railroad Company *vs.* Price County and the County Clerk and County Treasurer of Price county, now pending in the circuit court for Price county, and that the reason for taking it was the witness to be examined lives more than thirty miles from the place of trial in which his testimony is wanted; that the deposition was taken in pursuance of the annexed stipulation; that T. L. Kennan appeared for the plaintiff and W. G. Hand appeared for the defendants; that said deponent, before examination, was sworn to testify the truth, the whole truth, and nothing but the truth relative to said cause, and that said deposition was carefully read by said deponent and then subscribed by him.

ALEX. CRAVEN,
Notary Public.

155 (Endorsements:) Deposition of E. B. Sanders. No. 6. Filed Dec. 8, 1884. Charles H. Darlington, clerk cir. c't. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

STATE OF WISCONSIN:

Circuit Court, Price County.

WISCONSIN CENTRAL RAILWAY COMPANY, Plaintiff,
against
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Defendants.

Deposition taken in the above-entitled action on the 4th day of December, 1884, before F. W. Hall, a notary public in and for Dane county, Wisconsin, at his office, in the city of Madison, in said county, pursuant to the annexed stipulation.

Parties present, by their respective attorneys, and by consent of both the taking of the deposition under this notice is continued until the 18th day of December, 1884, at eleven o'clock a. m., at my office.

F. W. HALL, *Notary.*

DECEMBER 18TH, 1884.

Defendants present at eleven o'clock a. m., by their attorneys, Wm. H. Rogers; plaintiff not present.

On motion of defendants' attorney, further proceedings
156 herein are adjourned until half past two o'clock p. m. of this day, at my office.

F. W. HALL, *Notary.*

DEC. 18TH, 1884—2.30 p. m.

Parties present, by their respective attorneys—pl'ff by T. L. Kennan, def't- by Wm. H. Rogers.

C. M. FORESMAN, a witness produced on the part of the defendants, being duly sworn, testified as follows:

My name is Chas. M. Foresman; I reside in Madison; have resided here over 25 years; my age is sixty-two years; my business is clerking in the State land office at the capitol; I have been there since 1861, continuously. The office has been kept in the capitol at Madison. Since 1865 we have been on the 1st floor of the north wing; before that the office was in the old capitol. There is kept in that office a record of the land belonging to the State of Wisconsin; I mean the lands properly belonging to the State—school & university lands, the agricultural college lands, & swamp lands, but not the record of the railroad lands. We have a record of a part of the R. R. lands where they came in conflict with the State selections. Those records are easy of access to — public and can be examined at any time.

157 Quest. "State whether you have in that office the record of new selections of State lands from time to time made."

Objected to by pl'ff's counsel as irrelevant.

Ans. "Yes."

Ques. "State if a new selection of State lands was made in Aug., 1881."

Ans. "I commenced those selections in May, 1880, & completed in Aug., 1881—Aug. 13th, the date of completion." I was appointed by Gov. Smith to proceed to Washington to make examination of State lands.

(Above objected to by pl'ff's counsel as immaterial, and all on same subject objected to as immaterial, irrelevant, and incompetent.)

I went to Washington. I made a preliminary examination here in the State land office and made a list. The Governor took the list to Washington to aid in making a settlement with the U. S. Government. While there he made arrangement with Gov't that they detail a clerk to look over the swamp lands with myself, & what we agreed upon was to be final as to swamp lands. That took us from 1st of May, 1880, to Aug., 1881, to examine, & of the vacant lands we made lists to be approved and patented to the State—the non-vacant lands, of which we found many, that were disposed of by U. S. Gov't. Those disposed of prior to 1857 by land warrants we received indemnity for. Those disposed of for cash by

158 the Gov't we received certificates for, to be paid in cash. Those lists of lands that were vacant we received approved lists of & patents for those which came in conflict with claims of railroad & Sturgeon Bay canal and other corporations' claims—that is, the State of Wis. got a patent for all the vacant lands on the

lists except the disputed ones. Those are still under advisement unsettled.

We have the patents and the approved lists in the land office here, and of those not patented to the State there is a record in the swamp-land record.

I have a complete record of all these selections, in four large volumes, in the office.

This is a public record in the land office.

The first of the patents became a matter of public record here as soon as I got the records home from Washington. It was the 26th of August, 1881. I mean that the approved lists which I brought home from Washington was the first record here, but the patents did not come until later. After the 26th of Aug., 1881, any one could have gone to the State land office of the State of Wisconsin and ascertained exactly what lands of the swamp land grant belonged to the State of Wis. They could have ascertained it
159 from this record which I made out and which was then in the land office of the State. That is called a record of the new selections of swamp lands. This record has been kept in the land office ever since and is there at the present time. This selection was made from every town in the State. This record since Aug. 26 has been easy of access here at the capitol, in the land office. The record was completed and bears date Aug. 13th, 1881, but did not get here to Madison until about Aug. 26, 1881, so as to be a public record in the land office of the State. I reside over thirty miles from Phillips, the county seat of Price county.

All of the above testimony objected to by the pl'ff's counsel as irrelevant and incompetent, and pl'ff's counsel moved to strike it all out for above reason.

Cross-examination:

Quest. "Where there was a conflict between the State of Wis. and the Wis. Cent. R'y Co. & other corporations, whose duty was it to decide between them?"

(Objected to by def't- as not proper cross-examination and as calling for an opinion on a question of law.)

Ans. "I do not know." We found a large amount of lands where there was a conflict between the different grants and the State
160 selections. There is a large amount yet claimed by the State, of which it has not yet got the patents, which is yet in process of adjustment. The State has been since 1851 in getting patents of its swamp lands. It has received patents from the U. S. from time to time during this period.

CHAS. M. FORESMAN.

Subscribed & sworn to before me this 18th day of Dec. 1884.

F. W. HALL, [SEAL.]
Notary Public, Dane Co., Wis.

(Endorsement:) Filed December 27th, 1884. Charles H. Darlington, clerk, by N. F. Norlin, deputy, circuit court, Price county.

L. J. Rusk, being duly sworn, testified as follows:

My name is Lycurgus J. Rusk. I reside at present in the city of Madison, temporarily. I am private secretary of the Governor of the State of Wisconsin. I have held that office since 1st Monday of January, 1882. There is kept in the executive office applications for patents for railroad lands. I am custodian for the purpose of identifying the records of the executive office under the statute.

(Witness shown an application on the part of the pl'ff to the State for a patent, filed Feb. 21st, 1884.)

161 This is the original application made by the pl'ff to the Governor for a patent on behalf of the State for the lands therein described.

Quest. "Do you now hold in your hand a true copy of said original application?"

Ans. "Yes."

Copy offered in evidence.

Objected to by pl'ff as incompetent & irrelevant.

Copy of application received and attached, marked Exhibit "A."

(Witness shown original application by pl'ff to the Governor for a patent for lands therein described, filed Feb. 4th, 1884.)

This is the original application made and filed on that day. The words "take out" and memoranda in the right-hand margin opposite various parcels of land in the column "Remarks" are not a part of the original application as filed in the executive office, but are memoranda made in the executive office, and are mostly in my handwriting and mean as follows: The words "take out" mean to take out all of the description upon that line, meaning thereby a refusal on the part of the Governor to patent that description to the company making the application. When the words "take out" or ditto marks under the words "take" are followed by a specific de-

162 scription of land it means to take that specific description out of or exclude it in the patent from the lands described upon that line. When the words "take out" or the words "take out" followed by a specific description have lines drawn through them and are followed by the letters "O K L. J. R." in parenthesis it means that upon a more thorough examination of the claims, as to the description which they follow, — are found to be all right and are to be included in the Governor's patent to the company. Wherever the printers' mark "*l*," meaning to "take out," is found it means the same as the words "take out," above explained, & when followed by specific description means the same as above explained. My explanation applies to all descriptions from township- 36 to 40, inclusive, & to all descriptions upon the line, with the memoranda of whatever township.

These memoranda were made within a few days after filing the

application. The remarks to all the descriptions in Price county, Wis., are in my own hand but three. The first not in my handwriting is the ditto marks for words "take out," following northwest quarter S. E. ¼, sec. 3, town. 38, 1 east, 40 acres. Second one the words "take out," following N. E. ¼ N. E. ¼ sec. 1, T. 36, R. 1 west, 40 acres. The third not in my handwriting is the words
163 "take out," following S. W. ¼, S. E. ¼, sec. 9, T. 40, 2 W., 40 acres. Those are in the hand of Mr. W. W. Jones, a clerk in the office of the sec'y of state, who was assisting at that time in making the examination. He was assisting me, but I am not sure I was there at the time.

(The copy of the said application offered in evidence. Objected to by pl'ff as incompetent & irrelevant.) Copy is hereto attached, marked Exhibit "B."

Quest. "When did you obtain your information to enable you to determine that these were State lands?"

Objected to by pl'ff — reason above.

Ans. "From a comparison of the lists contained in the application with the lists of the lands to which the State made a claim under grants of Congress of date prior to the grant of the Wisconsin Central lands."

Quest. "Is there any public record of those lands?"

Ans. I do not know whether there is a public record or not.

Ques. Is there a public record of all State lands?

Ans. I do not apprehend that there is. I think the railroad company have lots of State lands & we will not get them back.
164 The lists that we compared the applications with are in the office of the commissioner of public lands of the State of Wisconsin.

I suppose that those records are accessible to the public. I do not know how long it has been accessible to the public. I first became acquainted with that list the first time that applications were made to the Governor after I became private secretary, in 1882. I do not know whether it was the first or second year. There have been applications at different times.

There is a conflict between the State & the Wis. Central R'y as to some of the lands in their grant. I do not remember when I first learned of that controversy; it has continued since I have been in office and is still unsettled as to some lands.

I suppose the courts will have to determine the respective rights of the State & company if we do not determine it amicably.

The State originally takes its claim to lands under the grants of Congress from an examination of the field-notes of surveys. The Governor takes his action upon the belief that the State has some rights to the land. His belief is based upon the facts as shown by field-notes to surveys. There are some parcels that come in grants to State
165 which the field-notes do not show as belonging to it, as, for instance, the notes might show there was no swamp when in fact there is a swamp, or sometimes where they show a swamp there

may be a hill. The field-notes are not the only means of knowledge It is a question of fact, which he determines by any means in his power, whether the lands should belong to the State.

Quest. "When an application of this kind is made to the Governor is there any department of state to which he applies for information?"

Ans. As a matter of fact, we do not apply to any department. The matter is determined in our office by bringing in the books from any or all the other departments.

Quest. Are those books public records?

Ans. "Yes."

Cross-examination:

After these applications were filed, I believe, the pl'ff appeared before the Governor, by attorney, asking the issuing of patents by him, and they were urging the Governor to issue patents. K. K. Kennan represented the company, & also E. H. Abbot was here, but, I think, just a few days before application was made. I did not hear the argument.

166 There had been previous to this time a conflict between the Wis. Central & the Chicago, St. Paul, Minneapolis & Omaha R'y Co. as to a portion of the grant. After these applications were filed in the Governor's office each separate description included in the application was examined to determine whether the State had any interest in or claim to the land described.

It took three or four days on these two lists to make the examination above mentioned, I should think. It might have taken more time after the examination was taken up making patents, and then after they were made they had to be gone through with three times or thereabouts. This was not all done in four days. It took besides myself most of the time three clerks. The plaintiff had no means of knowing what lands they would get until the patents were made, so far as I know. The plaintiff was urging the Governor to issue patents. After the application was made the pl'ff seemed very urgent to have patents. The Governor refused to issue patents on many of the lands claimed by pl'ff. What he refused to grant patents on would make a large list.

L. J. RUSK.

Subscribed & sworn to before me this 18th day of December, 1884.

F. W. HALL,
Notary Public, Dane Co., Wis.

[Endorsed:] State of Wisconsin, circuit court, Price county. Filed December 27th, 1884. Charles H. Darlington, clerk, by N. F. Norlin, deputy.

167 Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Def'ts.

It is hereby stipulated by and between the above-named parties that the depositions of the following-named persons, at the times and places hereinafter stated, may be taken to be used on the trial of the above-entitled cause on the part of the defendants, viz:

C. M. Foresman and L. J. Rusk, at the office of F. W. Hall, notary public, in the city of Madison, Dane county, Wisconsin, on Thursday, December 4th, 1884, at (ten) 10 o'clock a. m.

E. B. Sanders, at the office of Alex. Craven, notary public, in the city of Wausau, Marathon county, Wis., on Friday, December 5th, 1884, at 4 o'clock p. m.

Alex. Meggett, at the office of Chas. S. Roberts, a justice of the peace, in the city of Eau Claire, in Eau Claire county, Wis., on Tuesday, December 9th, 1884, at 9 o'clock a. m.

It is further stipulated that a copy of this stipulation shall
168 be filed with each such officer before whom depositions are to be taken, and returned with such depositions.

Dated Nov. 14th, 1884.

E. H. ABBOT,
Pl'ff's Att'y.
WILLIS HAND,
Def'ts' Att'y.

(Endorsements:) No. 6. Copy. Stipulation to take depositions. Filed December 27th, 1884. Charles H. Darlington, clerk, by N. F. Norlin, deputy.

STATE OF WISCONSIN } *ss:*
Dane County, }

Circuit Court for Price County, State of Wisconsin.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
vs.
PRICE COUNTY & THE COUNTY CLERK & COUNTY TREASURER OF PRICE COUNTY, Def'ts.

I, F. W. Hall, a notary public in and for said county, do hereby certify that the above deposition was taken before me at my office, in the city of Madison; that the same was begun on Thursday, December 4th, 1884, at ten o'clock a. m., and was continued by
169 stipulation until December 18th, 1884, at half past two o'clock p. m.; that it was taken at the request of the defendant; that it was reduced to writing by myself; that it was taken to be used in the action of Wisconsin Central Railroad Company, plaintiff, against Price County and The County Clerk and County Treasurer of Price County, defendants, now pending in the circuit court for

Price county; that Willis Hand, Esq., and Wm. H. Rogers, Esq., attended the taking of said deposition on the part of the defendants and T. L. Kennan on the part of the plaintiff; that the deposition was taken in pursuance of the annexed stipulation; that said deponents, C. M. Foresman and L. J. Rusk, before examination were sworn to testify the truth, the whole truth, and nothing but the truth relative to said cause, and that said deposition was carefully read to said deponents and then subscribed by them.

Witness my hand & seal this 18th day of December, A. D. 1884.

[SEAL.] F. W. HALL,
Notary Public, Dane Co., Wis.

Fees:

48 fols., @	$12 00
Administering oaths	50
Certificate	1 00
	$13 50
Certified copies of Wis. C. lists	28 00
Witness fees, 1 day, Foresman	1 50
" " " Rusk	1 50
	$44 50

170 (Endorsements:) Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis. Filed Dec. 27th, 1884. Chas. H. Darlington, clerk, by N. F. Norlin, deputy.

STATE OF WISCONSIN, } ss:
Executive Office, }

I, L. J. Rusk, private secretary of the Governor of Wisconsin, do hereby certify that the annexed has been compared by me with the original application of the Wisconsin Central railroad for patents for certain lands on file in this office, and that the same is a correct transcript therefrom and of the whole thereof and of the memoranda and filing marks thereon.

In witness whereof I have hereunto set my hand and affixed the executive privy seal of the State, at the capitol, this 18th day of December, in the year of our Lord one thousand eight hundred and eighty-four.

[SEAL.] L. J. RUSK,
Private Secretary of the Governor.

(Endorsements:) Filed Dec. 27th, 1884. Chas. H. Darlington, clerk, by N. F. Norlin, deputy. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

171 To his excellency Honorable Jeremiah M. Rusk, Governor of Wisconsin, Madison, Wis.

SIR: The Wisconsin Central Railroad Company hereby applies for patent to the lands hereinafter described, the same being a part

of the lands to which said railroad company is entitled under the act of Congress, approved May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," said company being the donee of the grant created in section third of said act and under the statutes of Wisconsin for the construction of its railroad from Portage City to Stevens' Point, and also from Menasha or Doty's Island to Stevens' Point and thence to Ashland, on Lake Superior.

Dated at —— this 21st day of February, A. D. 1884.

THE WISCONSIN CENTRAL RAILROAD COMPANY,
By EDWIN H. ABBOT, *Vice-President.*

Description of Tract.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
172 N w ¼	1	45	1 w	161	40
E ½ of s w ¼	1	"	"	80	------
S w ¼ s w ¼	1	"	"	40	------
E ½	1	"	"	321	72
S e ¼ n w ¼	3	"	"	40	------
W ½ n w ¼	3	"	"	80	07
N e ¼ s w ¼	3	"	"	40	------
E ½	3	"	"	320	89
S w ¼ n e ¼	9	"	"	40	------
S e ¼	9	"	"	160	------
All of	11	"	"	640	------
E ½ n e ¼	13	"	"	80	------
S w ¼ s w ¼	13	"	"	40	------
S e ¼	13	"	"	160	------
All of	15	"	"	640	------
W ½ n e ¼	23	"	"	80	------
W ½ s e ¼	23	"	"	80	------
E ½ n w ¼	23	"	"	80	------
S w ¼ n w ¼	23	"	"	40	------
S w ¼	23	"	"	160	------
All of	25	"	"	640	------
N e ¼	27	"	"	160	------
N e ¼ s e ¼	27	"	"	40	------
W ½ s e ¼	27	"	"	80	------
W ½	27	"	"	320	------
N e ¼	35	"	"	160	------
S e ¼ n w ¼	35	"	"	40	------
W ½ n w ¼	35	"	"	80	------
E ½ s e ¼	35	"	"	80	------
N e ¼ s w ¼	35	"	"	40	------

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents.		
				Acres.	H'd'ths.	
W ½ s w ¼	35	45	1 w	80		
N w ¼ s e ¼	35	"	"	40		
All of	1	46	1 e	640	78.	
E ½ n w ¼	3	"	"	80	15	
S w ¼	3	"	"	160		
E ½	3	"	"	320	84	
E ½ n w ¼	5	"	"	79	28	
E ½ s w ¼	5	"	"	80		
173 E ½	5	46	1 e	317	96	
All of	9	"	"	640		
E ½ n e ¼	11	"	"	80		
S w ¼ n e ¼	11	"	"	40		
S ½ n w ¼	11	"	"	80		
S ½	11	"	"	320		
All of	13	"	"	640		
N w ¼	15	"	"	160		
E ½ s w ¼	15	"	"	80		
S w ¼ s w ¼	15	"	"	40		
E ½	15	"	"	320		
E ½	17	"	"	320		
All of	21	"	"	640		
All of	23	"	"	640		
All of	25	"	"	640		
All of	27	"	"	640		
E ½ n w ¼	33	"	"	80		
E ½ s w ¼	33	"	"	80		
E ½	33	"	"	320		
All of	35	"	"	640		
W ½	3	45	2 e	320	67	
S w ¼	5	"	"	160		
W ½ s e ¼	5	"	"	80		
N ½	5	"	"	322	58	
All of	7	"	"	642	18	
S w ¼	9	"	"	160		
S e ¼ n e ¼	11	"	"	40		
W ½ n e ¼	11	"	"	80		
S e ¼	11	"	"	160		
S e ¼ n w ¼	11	"	"	40		
S w ¼ n w ¼	11	"	"	40		
N e ¼ s w ¼	11	"	"	40		
W ½ s w ¼	11	"	"	80		
S e ¼ n w ¼	15	"	"	40		
E ½ s w ¼	15	"	"	80		

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
S w ¼ s w ¼	15	45	2 e	40	
E ½	15	"	"	320	
N w ¼	17	"	"	160	
174 N ½ s w ¼	17	45	2 e	80	
E ½	17	"	"	320	
E ½ n e ¼	19	"	"	80	
S w ¼ n e ¼	19	"	"	40	
S e ¼	19	"	"	160	
N ½	19	"	"	326	
All of	21	"	"	640	
All of	23	"	"	640	
E ½ n e ¼	25	"	"	80	
N w ¼ n e ¼	25	"	"	40	
N ½ n w ¼	25	"	"	80	
S e ¼ s e ¼	25	"	"	40	
All of	27	"	"	640	
N e ¼ s w ¼	29	"	"	40	
N w ¼	29	"	"	160	
E ½	29	"	"	320	
W ½ n e ¼	31	"	"	80	
W ½ s e ¼	31	"	"	80	
W ½	31	"	"	335	78
N e ¼	33	"	"	160	
E ½ s e ¼	33	"	"	80	
N w ¼ s e ¼	33	"	"	40	
N w ¼	33	"	"	160	
N e ¼ s w ¼	33	"	"	40	
E ½ n e ¼	35	"	"	80	
E ½ s e ¼	35	"	"	80	
S w ¼ s e ¼	35	"	"	40	
		"	"		
All of	19	46	2 e	638	72
E ½ n e ¼	29	"	"	80	
S w ¼ n e ¼	29	"	"	40	
S ½ n w ¼	29	"	"	80	
S ½	29	"	"	320	
All of	31	"	"	634	90
All of	33	"	"	640	
175 N ½ n e ¼	23	22	9 e	80	
S w ¼ s w ¼	23	"	"	40	
N w ¼ n w ¼	5	25	7 e	39	55
N ½ n e ¼	33	25	9 e	80	
N e ¼ n w ¼	33	"	"	40	

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	Contents. H'd'ths.	
W ½ n e ¼	9	26	4 e	80	------	
E ½ s e ¼	11	27	1 w	80	------	
N w ¼	7	37	2 e	168	64	
N fr. ½	1	39	2 e	38	32	
N fr. ½	3	"	"	18	74	
N fr. ½	5	"	"	39	24	
N e ¼	7	"	"	160	------	
S ½	7	"	"	321	29	
N e ne	9	"	"	40	------	
S ½ s w	9	"	"	80	------	
E ½ n w	11	"	"	80	------	
N e sw	11	"	"	40	------	
S ½ s w	11	"	"	80	------	
S e ¼	11	"	"	160	------	
S e se	15	"	"	40	------	
N e ne	17	"	"	40	------	
S ½ n e	17	"	"	80	------	
W ½	17	"	"	320	------	(W ½ 17.)
N e se	17	"	"	40	------	
W ½ s e	17	"	"	80	------	
N ½	19	"	"	158	------	
W ½ n w	21	"	"	80	------	
N w n e	23	"	"	40	------	
S ½ n e	23	"	"	80	------	
N w ¼	23	"	"	160	------	
Lot 4	29	"	"	1	20	
N e fr. ¼	3	39	3 e	12	49	
N fr. ½	5	"	"	50	92	
N w s e	5	"	"	40	------	
S w ¼	7	"	"	161	12	
S e ¼	7	"	"	160	------	
S w s w	17	"	"	40	------	
N w n w	21	"	"	40	------	
176 Lot	35	39	1 w	24	42	
S w n e	35	"	"	40	------	
Lot 3	35	"	"	31	58	
All of	1	40	2 e	429 160	28	
All of	3	"	"	575	10	
N ½	5	"	"	279	19	
S e s w	5	"	"	40	------	
S e ¼	5	"	"	160	------	
S e n e	7	"	"	40	------	

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
S ½ s w	7	10	2 e	76	60
S e ¼	7	"	"	160	------
S w ¼	9	"	"	160	------
S e s e	9	"	"	40	------
W ½ s e	9	"	"	80	------
All of	11	"	"	640	------
N e ¼	13	"	"	160	------
N w n w	13	"	"	40	------
E ½ n w	13	"	"	80	------
S w ¼	13	"	"	160	------
N ½ n e	15	"	"	80	------
N w ¼	15	"	"	160	------
N w s w	15	"	"	40	------
E ½ n e	17	"	"	80	------
S e ¼	17	"	"	160	------
S e n e	19	"	"	40	------
W ½ n e	19	"	"	80	------
W ½	19	"	"	315	74
N w s e	19	"	"	40	------
E ½ s e	19	"	"	80	------
N w ¼	21	"	"	160	------
W ½ s w	21	"	"	80	------
W ½ n e	23	"	"	80	------
N w ¼	23	"	"	160	------
N w n w	27	"	"	40	------
S e s e	27	"	"	40	------
S w n e	29	"	"	40	------
E ½ n e	29	"	"	80	------
177 S e n w	29	40	2 e	40	------
S ½	29	"	"	320	------
S w ¼	31	"	"	162	49
W ½ s e	31	"	"	80	------
Lot 2	5	40	3 e	34	60
W ½	7	"	"	301	88
W ½ s e	7	"	"	80	------
N e s w	9	"	"	40	------
W ½ s w	9	"	"	80	------
N w s e	9	"	"	40	------
Lots 1, 2, 3, & 4	9	"	"	111	90
N ½ s w	27	"	"	80	------
N w ¼	7	41	1 e	170	89
N e s e	7	"	"	40	------
W ½ s e	7	"	"	80	------

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	Contents. H'd'ths.
S e ne	9	41	1 e	40	
W ½ s e	9	"	"	80	
Lot 7	11	"	"	32	50
Lots 3, 4, 5, & 6	15	"	"	111	
S w n w	21	"	"	40	
W ½ n e	27	"	"	80	
S e n w	27	"	"	40	
N e s w	27	"	"	40	
W ½ s w	27	"	"	80	
N e s e	27	"	"	40	
W ½ s e	27	"	"	80	
S w n e	29	"	"	40	
W ½	31	"	"	348	38
S w n e	1	41	2 e	40	
S w n w	15	"	"	40	
N ½ s w	15	"	"	80	
E ½ n w	17	"	"	80	
N ¼ s w	17	"	"	80	
S ½ s e	35	"	"	80	
W ½ s w	5	41	3 e	80	
All of	7	"	"	659	04
Lot 1	9	"	"	39	70
S e s w	15	"	"	40	
178 W ½ s w	15	41	3 e	80	
All of	17	"	"	378	10
E ½ n w	19	"	"	80	
E ½ s w	19	"	"	80	
E ½	19	"	"	320	
All of	21	"	"	375	40
E ½ n e	27	"	"	80	
S w s w	27	"	"	40	
S e ¼	27	"	"	160	
N w n w	29	"	"	40	
S e n w	29	"	"	40	
N ½ s w	29	"	"	80	
S e ¼	29	"	"	160	
Lot 1	29	"	"	39	
N w n w	31	"	"	45	12
E ½ n e	33	"	"	80	
S e s w	35	"	"	40	
W ½ s w	35	"	"	80	
N w n w	5	41	1 w	40	24
S w n w	5	"	"	40	

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	Contents. H'd'ths.	
S w ¼	5	41	1 w	160		
S w s e	5	"	"	40		
All of	7	"	"	649		
All of	19	"	"	659		
N e ¼	29	"	"	160		
N ½	29	"	"	320		
N w s e	29	"	"	40		
All of	31	"	"	661	98	
All of	35	"	"	640		S w s w pat'd to State.
W ½ n e	1	41	2 w	80	07	
E ½ n w	1	"	"	80	25	
E ½ s w	1	"	"	80		
S e ¼	1	"	"	160		
S ½ n e	3	"	"	80		
N ½	3	"	"	320		
S e ¼	3	"	"	160		
S e ¼	11	"	"	160		
All of	13	"	"	640		
179 All of	25	41	2 w	640		
S w s w	1	42	1 e	40		
N ½	3	"	"	326	02	
N e ¼	5	"	"	162	56	
S w n w	5	"	"	40		
E ½ n w	5	"	"	41	22	
S ½	5	"	"	320		
E ½ n w	7	"	"	80		
S ½ s w	7	"	"	77	10	
E ½	7	"	"	320		
N ½	9	"	"	320		
E ½ n e	13	"	"	80		
S w s w	17	"	"	40		
E ½ s w	19	"	"	80		
E ½	19	"	"	320		
N w n e	21	"	"	40		
N e n w	21	"	"	40		
W ½ n w	21	"	"	80		
S w s w	21	"	"	40		
N e n e	23	"	"	40		
W ½ n e	23	"	"	80		
E ½ n w	23	"	"	80		
E ½ s w	23	"	"	80		
S e ¼	23	"	"	160		

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
N e ne	25	42	1 e	40	
S ½ s w	25	"	"	80	
N e s e	25	"	"	40	
S ½ s e	25	"	"	80	
N ½	27	"	"	320	
N ½ s w	27	"	"	80	
All of	29	"	"	640	
All of	31	"	"	652	
W ½ s w	33	"	"	80	
S e s w	33	"	"	40	
S e s e	35	"	"	40	
N w ¼	3	42	2 e	165	29
N w s w	3	"	"	40	
S e s w	3	"	"	40	
180 E ½	3	42	2 e	325	49
S w s w	7	"	"	44	48
N e n w	9	"	"	40	
W ½ n w	9	"	"	80	
S w n w	11	"	"	40	
S w ¼	11	"	"	160	
S ½ s e	11	"	"	80	
Lot 5	11	"	"	51	50
All of	13	"	"	617	21
S e n e	15	"	"	40	
S w n w	19	"	"	44	72
N ½ s w	19	"	"	89	68
N w ¼	21	"	"	160	
E ½ s w	21	"	"	80	
E ½	21	"	"	320	
Lots 1, 2, & 3	23	"	"	107	40
S w ¼	23	"	"	160	
Lots 4 & 5	25	"	"	75	32
S ½ n w	25	"	"	80	
S w ¼	27	"	"	160	
N e s e	27	"	"	40	
W ½ s e	27	"	"	80	
S ½ s w	29	"	"	80	
N w s e	29	"	"	40	
Lots 1 & 2	29	"	"	65	30
All of	31	"	"	659	58
N w n w	33	"	"	40	
E ½ n w	33	"	"	80	
N e s w	33	"	"	40	

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	Contents. H'd'ths.	
W ½ s w	33	42	2 e	80		S w s w pat'd to State.
E ½	33	"	"	320		
S w n e	35	"	"	40		
N e s w	35	"	"	40		
S w s e	35	"	"	40		
Lots 1, 2, 4		"	"			
5, 6, 7, & 8	35	"	"	216	90	
S e s w	19	42	3 e	40		
N e s e	19	"	"	40		
181 W ½ s e	19	42	3 e	80		
S e s e	19	"	"	40		
Lots 4, 6, 7, & 8	19	"	"	130	52	
N w n e	31	"	"	40		
S e n e	31	"	"	40		
Lots 1, 2, & 3	31	"	"	109	90	
All of	7	42	2 w	640		
N e ¼	13	"	"	160		
N e s w	13	"	"	40		
N ½ s e	13	"	"	80		
Lots 1 & 5	13	"	"	69	06	
N ½ n e	15	"	"	80		
N w n w	17	"	"	40		
E ½ s w	17	"	"	80		
N e n w	21	"	"	40		
S ½ n w	21	"	"	80		
S w ¼	21	"	"	160		
Lots 1, 2, 4, 5, 6, & 7	21	"	"	258	05	
S w n e	25	"	"	40		
E ½ n e	25	"	"	80		
W ½	25	"	"	320		
S e ¼	25	"	"	160		
S e n e	27	"	"	40		
Lots 1, 2, & 3	27	"	"	80	66	
Lots 4, 5, 9, & 10	27	"	"	156	92	
N e s e	27	"	"	40		
W ½ s e	27	"	"	80		
E ½ n w	29	"	"	80		
All of	33	"	"	640		
All of	35	"	"	640		
N e n e	1	42	3 w	40	67	
S e n e	13	"	"	40		
W ½ n e	13	"	"	80		

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
S e n w	13	42	3 w	40	
E ½ s w	13	"	"	80	
S e ¼	13	"	"	160	
All of	29	43	1 e	640	
All of	31	"	"	622	83
182 N e n e	33	43	1 e	40	
W ½ n e	33	"	"	80	
S e s e	33	"	"	40	
W ½ s e	33	"	"	80	
W ½	33	"	"	320	
E ½ n w	7	43	2 e	80	
S w s w	7	"	"	43	12
E ½ s w	7	"	"	80	
E ½	7	"	"	320	
N w n e	19	"	"	40	
E ½ n e	19	"	"	80	
W ½ n w	19	"	"	86	49
N e s e	19	"	"	40	
N e ¼	21	"	"	160	
N w n w	21	"	"	40	
E ½ n w	21	"	"	80	
N w s e	21	"	"	40	
E ½ s e	21	"	"	80	
N e n e	29	"	"	40	
W ½ n e	29	"	"	80	
N e n w	29	"	"	40	
W ½ n w	29	"	"	40	
W ½ s w	29	"	"	80	
S w n e	31	"	"	40	
E ½ n e	31	"	"	80	
S w s w	31	"	"	43	95
E ½ s w	31	"	"	80	
N e s e	31	"	"	40	
W ½ s e	31	"	"	80	
S w n w	25	43	1 w	40	
S w ¼	25	"	"	160	
S ½ s e	25	"	"	80	
N e ¼	27	"	"	160	
N ½ n w	27	"	"	80	
N ½	29	"	"	320	
N e s w	29	"	"	40	
S e ¼	29	"	"	160	
S ½ s w	31	"	"	82	97

Description of Tract—Continued.

Part of sections.	Section.	Township.	Range.	Contents. Acres.	H'd'ths.
183 S e ¼	31	43	1 w	160	------
W ½ n e	33	"	"	80	------
N w ¼	33	"	"	160	------
N w s e	33	"	"	40	------
N e n e	35	"	"	40	------
W ½ n e	35	"	"	80	------
E ½ n w	35	"	"	80	------
S ½	35	"	"	320	------
W ½ n w	25	43	2 w	80	------
W ½ s w	25	"	"	80	------
W ½ n e	27	"	"	80	------
E ½ n w	27	"	"	80	------
E ½ s w	27	"	"	80	------
S e ¼	27	"	"	160	------
N ½ n e	29	"	"	80	------
S w s w	31	"	"	38	12
N w ¼	33	"	"	160	------
Lots 2 & 3	33	"	"	45	30
S e s e	33	"	"	40	------
Lots 5 & 6	33	"	"	110	90
E ½ n e	35	"	"	80	------
W ½ n w	35	"	"	80	------
S e s w	35	"	"	40	------
W ½ s w	35	"	"	80	------
S e n e	25	43	3 w	40	------
S ½	25	"	"	320	------
N e n w	35	"	"	40	------
E ½	35	"	"	320	------

(Endorsements:) Wisconsin Central railroad. Application for patents for certain lands. Exhibit "A" referred to in the deposition of L. J. Rusk. F. W. Hall, notary. State of Wisconsin, executive department. Received and filed this 21st day of February, 1884. L. J. Rusk, pr't- sec't'y. Filed Dec. 27, 1884. Charles H. Darlington, by N. F. Norlin, deputy. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

184 STATE OF WISCONSIN, } ss:
Executive Office, }

I, L. J. Rusk, private secretary of the Governor of Wisconsin, do hereby certify that the annexed has been compared by me with the original application of the Wisconsin Central railroad for patents

for certain lands on file in this office, and that the same is a correct transcript therefrom and of the whole thereof and the memoranda and filing marks thereon.

In witness whereof I have hereunto set my hand and affixed the executive privy seal of the State, at the capitol, this 18th day of December, in the year of our Lord one thousand eight hundred and eighty-four.

[SEAL.]

L. J. RUSK,
Private Secretary of the Governor.

(Endorsements:) Filed December 27, 1884. Charles H. Darlington, clerk, by N. F. Norlin, deputy. Filed July 17, 1885. Clarence Kellogg, cl'k sup. c't.

185 To his excellency Honorable Jeremiah M. Rusk, Governor of Wisconsin, Madison, Wis.

SIR: The Wisconsin Central Railroad Company hereby applies for patent to the lands hereinafter described, the same being a part of the lands to which said railroad company is entitled under the act of Congress approved May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," said company being the donee of the grant created in section third of said act and under the statutes of Wisconsin for the construction of its railroad from Portage City to Stevens' Point and also from Menasha or Doty's Island to Stevens' Point and thence to Ashland, on Lake Superior.

THE WISCONSIN CENTRAL
RAILROAD COMPANY,
By EDWIN H. ABBOT.

(Endorsements:) Filed in cir. c't Dec. 27, 1884. Filed in sup. c't July 17, 1885.

186 Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.
N ½ s e ¼	3	17	8 e	80	--	--	--
N w ¼ n e ¼	5	"	"	53	35	--	--
S e ¼ n w ¼	"	"	"	40	--	--	--
S w ¼ n e ¼	7	"	"	40	--	--	--
N ½ n w ¼	11	"	"	80	--	--	--
N ½ s e ¼	35	"	7 e	80	--	--	--
S e ¼ s e ¼	"	"	"	40	--	--	--
Lot 3	1	16	"	41	87	--	--
Lots 1 & 2	5	"	"	83	80	--	--

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N w ¼ n e ¼	9	16	7 e	40	--	--	--	
N e ¼ n w ¼	13	"	"	40	--	--	--	
S e ¼ s w ¼	25	"	"	40	--	--	--	
N e ¼ s w ¼	21	17	8 e	40	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
N e ¼ n e ¼	25	"	"	40	--	--	--	
S e ¼ n e ¼	29	"	"	40	--	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w frac. ¼	19	16	"	81	25	--	--	
N e ¼ s e ¼	27	"	"	40	--	--	--	
W ½ n e ¼	29	"	"	80	--	--	--	
S ½ s w ¼	7	17	9 e	55	08	--	--	
N e ¼ s w ¼	17	"	"	40	--	--	--	
S w ¼ s w ¼	29	"	"	40	--	--	--	Take out.
N ½	3	16	"	43	86	--	--	
N e ¼ s e ¼	9	17	10 e	40	--	--	--	
All fractional	3	45	3 w	631	48	--	--	
" "	5	"	"	630	56	--	--	
" "	7	"	"	629	22	--	--	
All of	9	"	"	640	--	--	--	
" "	11	"	"	640	--	--	--	
N ½	15	"	"	320	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
All	17	"	"	640	--	--	--	
All fractional	19	"	"	629	92	--	--	
S ½ n e ¼	21	"	"	80	--	--	--	
S ½ n w ¼	21	"	"	80	--	--	--	
187 N ½ n e ¼	13	18	6 e	80	--	--	--	
S e ¼	25	18	"	160	--	--	--	
W ½ n w ¼	31	20	7 e	60	07	--	--	
W ½ s w ¼	"	"	"	62	61	--	--	
W ½ n w ¼	19	19	"	61	42	--	--	
W ½ s w ¼	"	"	"	61	86	--	--	
N e ¼ s w ¼	23	"	"	40	--	--	--	Take out.
N w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	25	"	"	40	--	--	--	
W ½ s w ¼	31	"	"	61	80	--	--	
S w ¼	33	"	"	160	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s w ¼	7	18	"	62	10	--	--	
S w ¼ s e ¼	11	"	"	40	--	--	--	Take out.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
E ½ n w ¼	19	18	7 e	80	--	--	--	Take out s e n w.
S w ¼	27	"	"	160	--	--	--	
W ½ n w ¼	31	"	"	62	40	--	--	
N ½ n e ¼	33	"	"	80	--	--	--	
S w ¼ s w ¼	1	17	"	40	--	--	--	
E ½ s e ¼	9	18	8 e	80	--	--	--	*[Take out.] (O K. L. J. R.)
N e ¼ s e ¼	17	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ n e ¼	21	"	"	40	--	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	*[Take out.] (O K. L. J. R.)
N ½ n w ¼	"	"	"	80	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
S ½ n e ¼	27	"	"	80	--	--	--	*[Take out.] (O K. L. J. R.)
N ½	29	"	"	320	--	--	--	
S w ¼	"	"	"	160	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	
E ½ n e ¼	31	"	"	80	--	--	--	
S e ¼ n e ¼	33	"	"	40	--	--	--	
N e ¼ n w ¼	35	"	"	40	--	--	--	
N w ¼ s e ¼	1	17	"	40	--	--	--	
S ½ s e ¼	1	"	"	80	--	--	--	
E ½ n e ¼	3	"	"	94	42	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
188 S ½	21	45	3 w	320	--	--	--	
All	29	"	"	640	--	--	--	
N e ¼	31	"	"	160	--	--	--	
W frac. ½	"	"	"	308	86	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
N frac. ½	1	44	4 w	300	14	--	--	
S w ¼	1	"	"	160	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
All frac.	3	"	"	630	38	--	--	Take out n w n e.
E ½	9	"	"	320	--	--	--	
E ½ n w ¼	9	"	"	80	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
Lots 2, 4, 5, 6, & 7	11	"	"	184	80	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	

* Words enclosed in brackets [ ] erased in original.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
W ½ s w ¼	11	44	4 w	80	--	--	--	
N ½	15	"	"	320	--	--	--	Take out s w n w.
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	
All frac.	1	45	"	634	74	--	--	
" "	3	"	"	644	46	--	--	
" "	5	"	"	658	24	--	--	
E ½	7	"	"	------	--	--	--	
All	9	"	"	640	--	--	--	
All	11	"	"	640	--	--	--	
"	13	"	"	640	--	--	--	
"	15	"	"	640	--	--	--	
All	17	"	"	640	--	--	--	
All frac.	19	"	"	660	--	--	--	
All	21	"	"	640	--	--	--	
"	23	"	"	640	--	--	--	
"	25	"	"	640	--	--	--	
"	27	"	"	640	--	--	--	
"	29	"	"	640	--	--	--	
"	--	"	"	------	--	--	--	
"	33	"	"	640	--	--	--	
"	35	"	"	640	--	--	--	Take out s w s e.
All frac.	1	46	"	686	90	--	--	
189 S e ¼ s e ¼	1	36	4 e	40	--	--	--	
S e ¼ n e ¼	5	"	"	40	--	--	--	
W ½ n w ¼	"	"	"	110	77	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
N ½	7	"	"	326	44	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
W ½ s w ¼	"	"	"	87	32	--	--	
S w ¼ n w ¼	9	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
N e ¼ n e ¼	11	"	"	40	--	--	--	
E ½	13	"	"	320	--	--	--	
N e ¼ n w ¼	13	"	"	40	--	--	--	
N w ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S ½ n w ¼	"	"	"	80	--	--	--	
S w ¼	"	"	"	160	--	--	--	
W ¼ n w ¼	15	"	"	80	--	--	--	
S w ¼	17	"	"	160	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
W ½ s e ¼	17	36	4 e	80	--	--	--	
S w ¼ n e ¼	1	37	"	40	--	--	--	
N ½ n e ¼	"	"	"	78	93	--	--	
N w ¼	"	"	"	156	73	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
N e ¼ n e ¼	3	"	"	39	25	--	--	
Lots 1, 2, 3, & 6	"	"	"	112	13	--	--	
S w ¼ n e ¼	"	"	"	40	--	--	--	
N w ¼ n w ¼	5	"	"	39	17	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S w ¼	"	"	"	160	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
Lot 2 or s e ¼ s e ¼	"	"	"	32	35	--	--	
All	7	"	"	637	04	--	--	
Lots 1 & 2 in n e ¼	9	"	"	55	55	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
190 W frac. ½ n e ¼	3	46	4 w	90	11	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
W frac. ½	"	"	"	338	57	--	--	
S e ¼	"	"	"	160	--	--	--	
E ½	9	"	"	320	--	--	--	
All	11	"	"	640	--	--	--	
"	13	"	"	640	--	--	--	
"	15	"	"	640	--	--	--	
"	21	"	"	640	--	--	--	
"	23	"	"	640	--	--	--	
"	25	"	"	640	--	--	--	
"	27	"	"	640	--	--	--	
E ½	29	"	"	320	--	--	--	
All	33	"	"	640	--	--	--	
"	35	"	"	640	--	--	--	
All fractional	1	47	"	370	78	--	--	
E frac. ½	3	"	"	309	24	--	--	
E ½ n e ¼	9	"	"	80	--	--	--	
S e ¼	"	"	"	160	--	--	--	
All	11	"	"	640	--	--	--	
E ½	13	"	"	320	--	--	--	Take out n w n w.
E ½ s w ¼	"	"	"	80	--	--	--	" " n w n e.
S w ¼ s w ¼	"	"	"	40	--	--	--	
All	15	"	"	640	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
All	23	47	4 w	640	--	--	--	
N e ¼ n e ¼	25	"	"	40	--	--	--	
W ½ n e ¼	"	"	"	80	--	--	--	
W ½	"	"	"	320	--	--	--	
S e ¼	"	"	"	160	--	--	--	Take out s e s e.
All	27	"	"	640	--	--	--	
E ½	33	"	"	320	--	--	--	
E ½	35	"	"	320	--	--	--	Take out s w s e.
N w ¼	"	"	"	160	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
All frac.	23	48	"	19	--	--	--	
All	35	"	"	640	--	--	--	
S e ¼	13	49	"	160	--	--	--	
191 E ½	1	36	3 e	380	32	--	--	
E ½ s w ¼	"	--	---	80	--	--	--	
W ½ n e ¼	11	--	----	80	--	--	--	
W ½	"	--	----	320	--	--	--	
N w ¼ s e ¼	"	--	----	40	--	--	--	
N e ¼ n w ¼	1	37	----	38	70	--	--	
S w ¼ n w ¼	"	--	----	40	--	--	--	
S e ¼ s e ¼	"	--	----	40	--	--	--	
N ½ n w ¼	11	--	----	80	--	--	--	
S e ¼ s e ¼	"	--	----	40	--	--	--	
S e ¼ s e ¼	13	--	----	40	--	--	--	
E ½ n e ¼	23	--	----	80	--	--	--	
N w ¼ n e ¼	"	--	----	40	--	--	--	
N e ¼ n e ¼	35	--	----	40	--	--	--	
N e ¼ n e ¼	11	38	----	40	--	--	--	
N e ¼ n w ¼	"	--	----	40	--	--	--	Take out.
N w ¼ n w ¼	"	--	----	40	--	--	--	
S ½ n w ¼	"	--	----	80	--	--	--	
S w ¼	"	--	----	160	--	--	--	
W ½ s e ¼	"	--	----	80	--	--	--	
S e ¼ s e ¼	"	--	----	40	--	--	--	
E ½	13	--	----	320	--	--	--	
N ½ n w ¼	"	--	----	80	--	--	--	
S w ¼ n w ¼	"	--	----	40	--	--	--	Take out.
S e ¼ n w ¼	"	--	----	40	--	--	--	
N e ¼ s w ¼	"	--	----	40	--	--	--	
N w ¼ s w ¼	"	--	----	40	--	--	--	Take out.
S ½ s w ¼	"	--	----	80	--	--	--	
E ½	23	--	----	320	--	--	--	

186 Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
E ½ n w ¼	23	--	----	80	--	--	--	
S w ¼	"	--	----	160	--	--	--	
N w ¼ s e ¼	"	--	----	40	--	--	--	
S w ¼ s e ¼	"	39	----	40	--	--	--	
S ½ s w ¼	25	--	----	80	--	--	--	
S ½ s e ¼	"	--	----	80	--	--	--	
All	35	--	-- -	640	--	--	--	
N w ¼ s e ¼	1	36	4 e	40	--	--	--	Take out.
192 Lots 3 & 4 in s e ¼	9	37	4 e	66	20	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
S ½ n e ¼	11	"	"	80	--	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
S e ¼	"	"	"	160	--	--	--	
N ½ n w ¼	13	"	"	80	--	--	--	
N ½ n e ¼	17	"	"	80	--	--	--	
N w ¼	"	"	"	160	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
W ½ n w ¼	19	"	"	81	13	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	21	"	"	80	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
S e ¼ s e ¼	23	"	"	40	--	--	--	
S ½ s w ¼	25	"	"	80	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ n e ¼	27	"	"	40	--	--	--	Take out.
N ½ n w ¼	"	"	"	80	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	Take out.
N e ¼ s e ¼	"	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	Take out.
N w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
N e ¼ n e ¼	31	"	"	40	--	--	--	
N w ¼ n e ¼	"	"	"	40	--	--	--	Take out.
W ½	"	"	"	326	54	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ n e ¼ & s e ¼ n e ¼ & s w ¼ n e ¼.	33	"	"	120	--	--	--	Take out s w n e 33, 37, 4 e.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼ n e ¼	33	37	4 e	40	--	--	--	Take out.
E ½ n w ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	Take out.
N ½ s e ¼	"	"	"	80	--	--	--	
E ½	35	"	"	320	--	--	--	
193 S ½ n w ¼	35	37	4 e	80	--	--	--	
S w ¼	"	"	"	160	--	--	--	
S w ¼ n w ¼	1	38	"	40	--	--	--	
S e ¼ s e ¼	1	"	"	40	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
E ½ s e ¼	5	"	"	80	--	--	--	Take out.
N w ¼ s e ¼	5	"	"	40	--	--	--	Take out.
All	7	"	"	634	88	--	--	
S ½ s w ¼	9	"	"	80	--	--	--	
S ½ s e ¼	9	"	"	80	--	--	--	
Lots 1 2 in s w ¼	11	"	"	55	95	--	--	
N w ¼ n e ¼	13	"	"	40	--	--	--	
N ½ n e ¼ and s w ¼ ne ¼.	15	"	"	119	20	--	--	
W ½	"	"	"	320	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	Take out.
N w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S w ¼ n e ¼	17	"	"	40	--	--	--	
N w ¼ n e ¼	"	"	"	40	--	--	--	Take out.
S e ¼ n e ¼	"	"	"	40	--	--	--	
W ½	"	"	"	320	--	--	--	
S e ¼	"	"	"	160	--	--	--	
All of	19	"	"	638	72	--	--	
N w ¼ n w ¼	21	"	"	40	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
W ½ n e ¼	23	"	"	80	--	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
E ½ n w ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
S ½ s w ¼	25	"	"	80	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
S w ¼	27	"	"	147	10	--	--	
All of	29	"	"	640	--	--	--	
N e ¼	31	"	"	160	--	--	--	
W ½	"	"	"	313	68	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
194 N e ¼ s e ¼	31	38	4 e	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s e ¼	"	"	"	40	--	--	--	
Lots 1, 2, 3, & 6	33	"	"	123	--	--	--	
W ½ n e ¼	"	"	"	80	--	--	--	
N e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
N w ¼ n w ¼	"	"	"	40	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
N w ¼ n e ¼	35	38	"	40	--	--	--	Take out.
S w ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N e ¼ s w ¼	"	"	"	40	--	--	--	
195 S ½ s w ¼	35	38	4 e	80	--	--	--	
S e ¼	"	"	"	160	--	--	--	
S ½	19	39	"	307	81	--	--	
S e ¼ s w ¼	21	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
N e ¼ s w ¼	23	"	"	40	--	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
Lots 1 & 2	"	"	"	45	40	--	--	
N w ¼ n e ¼	25	"	"	40	--	--	--	
N ½	27	"	"	320	--	--	--	
Lots 1, 2, 3	"	"	"	102	20	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
N w ¼ n w ¼	33	"	"	40	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S w ¼ s e ¼	"	"	"	40	--	--	--	
N ½ n e ¼	35	"	"	80	--	--	--	Take out.
S ½ n e ¼	"	"	"	80	--	--	--	
N w ¼	"	"	"	157	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	5	36	5 e	40	--	--	--	
S w ¼	"	"	"	160	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N w ¼	7	36	5 e	158	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
W ½ s w ¼	"	"	"	78	80	--	--	
N e ¼	17	"	"	160	--	--	--	Take out n w n e.
E ½ s w ¼	"	"	"	80	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	Take out s w s e.
E ½ n e ¼	5	37	"	76	92	--	--	
Lots 2, 5, 6, 9, 10	"	"	"	134	95	--	--	
N w s e	"	"	"	40	--	--	--	Take out n w s e.
N ½	7	"	"	323	20	--	--	
196 N e ¼ n e ¼	17	37	5 e	40	--	--	--	
S w ¼ n e ¼	"	"	"	40	--	--	--	
N e ¼ n w ¼	"	"	"	40	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S e ¼ n e ¼	19	"	"	40	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
N ½ n e ¼	29	"	"	80	--	--	--	
W ½ n w ¼	"	"	"	80	--	--	--	Take out s w n w.
S e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S w ¼	"	"	"	160	--	--	--	Take out n e s w.
W ½ s e ¼	"	"	"	80	--	--	--	Take out n w s e.
S e ¼ s e ¼	"	"	"	40	--	--	--	
E ½	5	38	5 e	295	28	--	--	Take out s e n e.
S e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S w ¼	"	"	"	160	--	--	--	Take out n w s w.
N ½	7	"	"	330	83	--	--	Take out s e n e.
N ½ s w ¼	"	"	"	86	33	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S ½ n e ¼	17	"	"	80	--	--	--	Take out.
S ½ n w ¼	"	"	"	80	--	--	--	Take out s e n w.
N ½ s w ¼	"	"	"	80	--	--	--	
S ½ s e ¼	"	"	"	40	--	--	--	Should be 80 acres.
S e ¼ n e ¼	19	"	"	40	--	--	--	Take out.
N w ¼	"	"	"	173	09	--	--	
N ½ s w ¼	"	"	"	86	22	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	
S e ¼ s e ¼	31	"	"	40	--	--	--	
Lots 3, 5, 6	19	39	"	101	45	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N w ¼ n w ¼	29	39	5 e	40				
S w ¼ s w ¼	"	"	"	40				
E ½ s e ¼	"	"	"	80				
S w ¼ s e ¼	"	"	"	40				
Lot 4	7	37	"	37	60			
197 N e ¼ s w ¼	33	39	1 e	40				Take out.
S w ¼ n w ¼	35	"	"	40				Take out.
S w ¼	"	"	"	160				Take out.
N e ¼ n e ¼	9	36	1 w	40				
E ½	21	37	1 w	320				
S e ¼ n w ¼	"	"	"	40				
S w ¼	"	"	"	160				
S w ¼	33	"	"	160				
N w ¼ n e ¼	9	38	1 w	40				
Lot 8	"	"	"	45	90			
S w ¼ s w ¼	21	39	"	40				
W ½ n e ¼	33	"	"	80				
S e ¼ n e ¼	"	"	"	40				Take out.
Lot 2	35	"	"					? Take out.
E ½	5	36	1 w	316	19			
E ½ n w ¼	"	"	"	77	87			
N w ¼ n w ¼	7	"	"	49	52			
N e ¼ n e ¼	17	"	"	40				
W ½ n e ¼	"	"	"	80				
N w ¼	"	"	"	160				
N e ¼ s w ¼	"	"	"	40				
W ½ s w ¼	"	"	"	80				
E ½	19	37	"	320				Take out n w n e.
S w ¼	"	"	"	173	45			
E ½	29	"	"	320				
N w ¼	"	"	"	160				
E ½	31	"	"	320				
N w ¼	"	"	"	170	65			
N e ¼	7	38	"	160				
E ½ s e ¼	"	"	"	80				
Lots 2, 3 (or n e ¼)	17	"	"	138	41			Take out lot 1.
W ½	"	"	"	298	80			
Lot 7	19	"	"	32	45			
S e ¼ s w ¼	31	"	"	40				
S w ¼	19	39	"	180	73			
S e ¼	"	"	"	160				
N e ¼	29	"	"	160				

198 Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
E ½ n w ¼	29	39	1 w	80	--	--	--	
N w ¼ n w ¼	"	--	"	40	--	--	--	
E ½ s w ¼	"	--	"	80	--	--	--	
S w ¼ s w ¼	"	--	"	40	--	--	--	
W ½ s e ¼	"	--	"	80	--	--	--	
E ½ s w ¼	31	--	"	80	--	--	--	
N w ¼	1	36	2 w	145	85	--	--	Take out n f'l ½ n w, 65, 85.
E ½ s w ¼	5	--	"	80	--	--	--	
N w ¼ s w ¼	"	--	"	40	--	--	--	
N ½	7	--	"	322	97	--	--	
N e ¼ n e ¼	9	--	"	40	--	--	--	
S w ¼ n e ¼	"	--	"	40	--	--	--	
S ½ n w ¼	"	--	"	80	--	--	--	
S ½	"	--	"	320	--	--	--	Take out n w s e.
E ½	11	--	"	320	--	--	--	
S e ¼ n w ¼	"	--	"	40	--	--	--	
S w ¼	"	--	"	160	--	--	--	
S ½	13	--	"	320	--	--	--	Take out n w s w.
All	15	--	"	640	--	--	--	
N e ¼	17	--	"	160	--	--	--	
N e ¼ s e ¼	"	--	"	40	--	--	--	
W ½ s e ¼	"	--	"	80	--	--	--	
Lot 6 (or n ½ s w)	3	37	2 w	62	82	--	--	
W ½ n e ¼	5	--	"	75	70	--	--	
S e ¼ n e ¼	"	--	"	40	--	--	--	Take out.
N w ¼	"	--	"	152	32	--	--	Take out n ½ n w.
E ½ s w ¼ and n w ¼ s w ¼.	27	38	1 e	120	--	--	--	
N e ¼ and s ½ s e ¼	31	"	"	240	--	--	--	
Lots 1 and 5	15	37	1 w	16	--	--	--	
Lot 1	1	38	"	18	06	--	--	
Lots 1, 2, & 3	7	37	"	101	33	--	--	Take out lots one and three.
Lot 1	25	38	2 w	1	60	--	--	
S e ¼ s w ¼	25	"	3 w	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ s w ¼, e ½ s w ¼ & s e ¼.	11	43	1 e	280	--	--	--	Take out.
E ½ n w ¼, w ½ s w ¼, & n e ¼ s w ¼.	23	"	"	200	--	--	--	Take out.

199 Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N ½	7	37	2 w	294	40			
N e ¼ s w ¼	"	"	"	40				
N ½ s e ¼	"	"	"	80				
S w ¼ n w ¼	17	"	"	40				Take out.
Lots 3 & 7	"	"	"	99	50			
" 1, 2, & 5	19	"	"	99	99			
S e ¼ n e ¼	"	"	"	40				
N e ¼ s e ¼	"	"	"	40				Take out.
W ½ s e ¼	"	"	"	80				
E ½ n w ¼	21	"	"	80				Take out n e n w.
S w ¼ n w ¼	"	"	"	40				
E ½	23	"	"	320				
N w ¼ n w ¼	25	"	"	40				
S e ¼ n w ¼	"	"	"	40				Take out.
E ½ s e ¼	29	"	"	80				
S w ¼ s e ¼	"	"	"	40				
N w ¼ s w ¼	33	"	"	40				
S e ¼ s e ¼	"	"	"	40				
S ½ n e ¼	35	"	"	80				
S w ¼	"	"	"	160				Take out s e s w.
N ½ s e ¼	"	"	"	80				
S ½ n e ¼	1	38	"	80				
S ½ n w ¼	"	"	"	80				
S ½	"	"	"	320				
S ½ n e ¼	5	"	"	80				
Lots 1, 2, 3, 4, 5 (or w ½).	"	"	"	233	67			
N ½ s e ¼	"	"	"	80				
All	7	"	"	632	80			
E ½ n w ¼	9	"	"	80				
S w ¼ n w ¼	"	"	"	40				
S ½ s w ¼	"	"	"	80				Take out s e s w.
E ½	11	"	"	320				
E ½ n w ¼	"	"	"	80				Take out n e n w.
S w ¼ n w ¼	"	"	"	40				
S w ¼	"	"	"	160				
N ½ s e ¼	13	"	"	80				
E ½ n w ¼	11	"	"	80				
200 N w ¼ n w ¼	13	38	2 w	40				
All	15	"	"	640				Take out s w n w.
N e ¼	17	"	"	160				
W ½	"	"	"	320				

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼ s e ¼	17	38	2 w	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
All	19	"	"	586	89	--	--	Take out w ½.
S ½ n e ¼	21	"	"	80	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
S ½	"	"	"	320	--	--	--	Take out n w s w.
N w ¼ s e ¼	23	"	"	40	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
		"	"		--	--	--	
W ½	27	"	"	320	--	--	--	
S e ¼	"	"	"	155	--	--	--	
N e ¼	29	"	"	160	--	--	--	Take out n w n e.
W ½	"	"	"	320	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
All	31	"	"	624	84	--	--	
S ½ n e ¼	33	"	"	80	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
Lots 3, 4, 5 (or n w ¼)	35	"	"	159	50	--	--	
N w ¼ s w ¼	33	"	"	40	--	--	--	
N w ¼	25	39	"	160	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
S w ¼	27	"	"	160	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	
S w ¼	29	"	"	160	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ¼ s e ¼	"	"	"	80	--	--	--	
All	31	"	"	404	31	--	--	
N ½	33	"	"	320	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N ½ s e ¼	"	"	"	80	--	--	--	
N ½	35	"	"	320	--	--	--	
201 N w ¼ s w ¼	35	39	2 w	40	--	--	--	
W ½ n e ¼	1	36	3 w	73	49	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
N e ¼ s e ¼	13	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
W ½ n e ¼	1	37	"	77	36	--	--	Take out n w n e.
S e ¼ n e ¼	"	"	"	40	--	--	--	
W ½	"	"	"	314	33	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S e ¼	1	37	3 w	160	--	--	--	
W ½ s w ¼	13	"	"	80	--	--	--	
S ½ n e ¼	25	"	"	80	--	--	--	
Lots 1, 2, 6, 7	1	38	"	149	66	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
N e ¼	13	"	"	------	--	--	--	
N ½	13	"	"	320	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	Take out.
W ½ s e ¼	"	"	"	80	--	--	--	
N ½	25	"	"	320	--	--	--	Take out n e n e.
N e ¼ s w ¼	"	"	"	40	--	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
S e ¼ s w ¼	"	"	"	------	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
E ½	25	39	"	320	--	--	--	
S ½ n w ¼	21	44	1 e	80	--	--	--	Take out.
E ½ n e ¼	1	"	"	80	95	--	--	
N w ¼ n e ¼	"	"	"	40	77	--	--	
N ½ n w ¼	"	"	"	81	--	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
All	3	"	"	645	58	--	--	
S e ¼ n e ¼	11	"	"	40	--	--	--	Take out.
E ½ s w ¼	"	"	"	80	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
W ½ n w ¼	13	"	"	80	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
202 W ½ n w ¼	15	44	1 e	80	--	--	--	
S w ¼	"	"	"	160	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
Lots 1, 4, 6, 7, 8	25	"	"	102	14	--	--	
All	5	45	"	640	80	--	--	
All	7	"	"	644	96	--	--	
N w ¼ n w ¼	9	"	"	40	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
S w ¼	"	"	"	160	--	--	--	
N e ¼	17	"	"	160	--	--	--	
W ½	"	"	"	320	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area.		Total area.	
				Acres.	H'd'ths.	Acres.	H'd'ths.
All	21	45	1 e	640	--	--	--
All	29	"	"	640	--	--	--
E ½	33	"	"	320	--	--	--
E ½ n w ¼	"	"	"	80	--	--	--
S w ¼ n w ¼	"	"	"	40	--	--	--
S w ¼	"	"	"	160	--	--	--
W ½ n w ¼	5	46	1 e	79	48	?	--
W ½ s w ¼	"	"	"	80	--	?	--
All	7	"	"	638	78	--	--
W ½	17	"	"	320	--	--	--
All of	19	"	"	640	52	?	--
All	29	"	"	640	--	--	--
All	31	"	"	643	20	--	--
W ½ s w ¼	33	"	"	80	--	--	--
All	17	47	"	6	99	--	--
N e ¼	19	"	"	160	--	--	--
W ½	19	"	"	317	60	--	--
W ½ s e ¼	"	"	"	80	--	--	--
All	27	"	"	640	--	--	--
S ½ n e ¼	29	"	"	80	--	--	--
S ½ s w ¼	"	"	"	80	--	--	--
S e ¼	"	"	"	160	--	--	--
W ½	31	"	"	317	12	--	--
S e ¼	"	"	"	160	--	--	--
203 All	33	47	1 e	640	--	--	--
All	35	"	"	640	--	--	--
All	1	45	1 w	645	96	--	--
All	11	"	"	640	--	--	--
All	13	"	"	640	--	--	--
N ½ n e ¼	1	46	"	80	13	--	--
N w ¼	"	"	"	159	93	--	--
S e ¼ s w ¼	"	"	"	40	--	--	--
S ½ s e ¼	"	"	"	80	--	--	--
All	3	"	"	649	44	--	--
E ½ s e ¼	5	"	"	80	--	--	--
S w ¼ s e ¼	"	"	"	40	--	--	--
S e ¼ n e ¼	7	"	"	40	--	--	--
S e ¼ s w ¼	"	"	"	40	--	--	--
S e ¼	"	"	"	160	--	--	--
All	9	"	"	640	--	--	--
N ½	11	"	"	320	--	--	--
S w ¼	"	"	"	160	--	--	--

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.
N ½ s e ¼	11	46	1 w	80	--	--	--
S e ¼ s e ¼	"	"	"	40	--	--	--
N ½ n e ¼	13	"	"	80	--	--	--
N ½ n w ¼	"	"	"	80	--	--	--
S ½ s w ¼	13	"	"	80	--	--	--
S e ¼	"	"	"	160	--	--	--
All	15	"	"	640	--	--	--
N ½	17	"	"	320	--	--	--
S ½ s w ¼	"	"	"	80	--	--	--
S ½ s e ¼	"	"	"	80	--	--	--
E ½	21	"	"	320	--	--	--
N w ¼	"	"	"	160	--	--	--
N e ¼ s w ¼	"	"	"	40	--	--	--
N w ¼ s w ¼	"	"	"	40	--	--	--
E ½ n e ¼	23	"	"	80	--	--	--
S w ¼ n e ¼	"	"	"	40	--	--	--
S e ¼	"	"	"	160	--	--	--
E ½ s w ¼	"	"	"	40	--	--	--
N w ¼ s w ¼	"	"	"	40	--	--	--
204 N w ¼ n e ¼	25	46	1 w	40	--	--	--
N e ¼ n w ¼	"	"	"	40	--	--	--
W ¼ n w ¼	"	"	"	80	--	--	--
S ½ s w ¼	"	"	"	80	--	--	--
S e ¼	"	"	"	160	--	--	--
W ½ n e ¼	27	"	"	80	--	--	--
S e ¼ n e ¼	"	"	"	40	--	--	--
N ½ n w ¼	"	"	"	80	--	--	--
S e ¼ n w ¼	"	"	"	40	--	--	--
N e ¼ s w ¼	"	"	"	40	--	--	--
S ½ s w ¼	"	"	"	80	--	--	--
S e ¼	"	"	"	160	--	--	--
All	35	"	"	640	--	--	--
All	25	47	"	640	--	--	--
S e ¼ s e ¼	27	"	"	40	--	--	--
E ½ s e ¼	33	"	"	80	--	--	--
S w ¼ s e ¼	"	"	"	40	--	--	--
All	35	"	"	640	--	--	--
All	1	43	2 e	628	38	--	--
Lots 1, 4, 5, 6, 7	3	"	"	172	20	--	--
N w ¼ n e ¼	5	"	"	36	87	--	--
S ½ n e ¼	"	"	"	80	--	--	--
W ½	"	"	"	315	09	--	--

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S e ¼	5	43	2 e	160	--	--	--	
N e ¼	9	"	"	160	--	--	--	
W ½	"	"	"	320	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
E ½	11	"	"	320	--	--	--	
205 W ½ s w ¼	23	44	1 e	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S w ¼ n e ¼	29	"	"	40	--	--	--	Take out.
N e ¼	35	"	"	160	--	--	--	Take out.
N ½ n w ¼	"	"	"	80	--	--	--	Take out.
S w ¼ n w ¼	"	"	"	40	--	--	--	
S ½ s w ¼	"	"	"	80	--	--	--	Take out s w s w & s e s w.
S e ¼	"	"	"	160	--	--	--	Take out.
S ½ s w ¼	27	45	1 w	80	--	--	--	
S w ¼ n w ¼	1	43	2 w	40	--	--	--	Take out.
N e ¼	13	44	1 e	160	--	--	--	Take out.
E ½ n w ¼	"	"	"	80	--	--	--	Take out.
W ½ s w ¼	"	"	"	80	--	--	--	Take out.
N e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S e ¼	"	"	"	160	--	--	--	Take out.
E ½ n w ¼	15	44	1 e	80	--	--	--	Take out.
N w ¼ s w ¼	1	45	1 e	40	--	--	--	Take out.
N e ¼ n w ¼	3	"	"	40	22	--	--	Take out.
S e ¼ n e ¼	9	"	"	40	--	--	--	Take out.
N e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
N w ¼ n w ¼	23	"	"	40	--	--	--	Take out.
S e ¼ s e ¼	27	"	"	40	--	--	--	Take out.
N e ¼ n w ¼	35	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
W ½ n w ¼	3	46	1 e	79	97	--	--	Take out.
N w ¼ n e ¼	11	"	"	40	--	--	--	Take out.
N w ¼ s w ¼	15	"	"	40	--	--	--	Take out.
S w ¼ n w ¼	33	"	"	40	--	--	--	Take out.
S w ¼ s e ¼	11	46	1 w	40	--	--	--	Take out.
S e ¼ s w ¼	21	"	"	40	--	--	--	Take out.
N w ¼ n e ¼	23	"	"	40	--	--	--	Take out.
S w ¼ n w ¼	27	"	"	40	--	--	--	Take out.
N w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N ½ n e ¼	13	43	4 w	80	--	--	--	Take out.
N e ¼ s e ¼	23	"	"	40	--	--	--	Take out.

206 Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N w ¼	11	43	2 e	80				38.50 acres.
N w ¼ s w ¼	"	"	"	40				
S w ¼ n w ¼	13	"	"	40				
S w ¼	"	"	"	160				
S w ¼ s e ¼	"	"	"	40				
S w ¼	15	"	"	160				
S w ¼ s e ¼	"	"	"	40				
E ½	17	"	"	320				Take out n w n e.
N w ¼ n w ¼	"	"	"	40				
S e ¼ n w ¼	"	"	"	40				Take out.
S w ¼	"	"	"	160				Take — n e ¼ s w.
E ½ n w ¼	1	44	2 e	80	96			
All	3	"	"	641	50			
All	5	"	"	642	02			Take out s e s w.
All	7	"	"	654	78			Take out n w n e.
S e ¼ n e ¼	9	"	"	40				
N w ¼ n w ¼	"	"	"	40				
N e ¼ s e ¼	"	"	"	40				
S w ¼ s e ¼	"	"	"	40				
W ½ n e ¼	11	"	"	80				Take out.
S e ¼ n e ¼	"	"	"	40				
W ½	"	"	"	320				
N ½ s e ¼	"	"	"	80				
E ½ n w ¼	13	"	"	80				
S w ¼ n w ¼	"	"	"	40				
N e ¼ s w ¼	"	"	"	40				
W ½ s w ¼	"	"	"	80				
S ½	15	"	"	320				
All	17	"	"	640				Take out n e n w, s w n w.
Lot 4	19	"	"	32	50			
E ½	21	"	"	320				
N w ¼	"	"	"	160				
E ½ s w ¼	"	"	"	80				Take out s e s w.
N ½ n e ¼	33	"	"	80				
N w ¼ n w ¼	"	"	"	40				
N ½	25	"	"	320				
N ½ s w ¼	"	"	"	80				
207 All	27	44	2 e	640				
E ½	29	"	"	320				
S ½ n e ¼	31	"	"	80				
S ½ n w ¼	"	"	"	80				

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S w ¼	31	44	2 e	160	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
All	33	"	"	640	--	--	--	
All	35	"	"	640	--	--	--	Take out s e s w, s w s e.
W ½ n w ¼	9	45	2 e	80	--	--	--	Take out n w n w.
N e ¼ n e ¼	11	"	"	40	--	--	--	Take out.
N e ¼ N w ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S ½ s w ¼	17	"	"	80	--	--	--	Take out.
N w ¼ n e ¼	19	"	"	40	--	--	--	Take out.
S w ¼ n e ¼	25	"	"	40	--	--	--	Take out.
W ½ s w ¼	29	"	"	80	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S w ¼ s e ¼	33	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N w ¼ n e ¼	29	46	2 e	40	--	--	--	Take out.
W ½ n w ¼	1	43	3 e	82	15	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
W ½ n w ¼	3	"	"	84	90	--	--	
All	5	"	"	642	56	--	--	
N e ¼ n e ¼	9	"	"	40	--	--	--	
E ½ n w ¼	13	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	Take out.
W ½ s w ¼	"	"	"	80	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
Lots 3, 4	"	"	"	82	40	--	--	
N e ¼ n e ¼	15	"	"	40	--	--	--	
S e ¼ s e ¼	17	"	"	40	--	--	--	
N e ¼ n e ¼	21	"	"	40	--	--	--	Take out.
W ½ n e ¼	"	"	"	80	--	--	--	Take out s w n e.
S e ¼ s e ¼	"	"	"	40	--	--	--	
N ½ n w ¼, s w ¼ n w ¼, & W ½ s w ¼.	"	"	"	200	--	--	--	
N ½ s w ¼, s w ¼ e ½, s w ¼ & s e ¼.	23	"	"	572	20	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
208 N e ¼ n e ¼	5	44	3 e	40	11	--	--	
W ½ n e ¼	"	"	"	80	32	--	--	
N e ¼ n w ¼	"	"	"	40	53	--	--	
W ½ n w ¼	"	"	"	80	74	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S w ¼	5	44	3 e	160	--	--	--	Take out s e s w.
All	7	"	"	638	28	--	--	
E ½ n e ¼	9	"	"	80	--	--	--	
S w ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
N e ¼ n e ¼	17	"	"	40	--	--	--	
S ½ n e ¼	"	"	"	80	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
S ½	"	"	"	320	--	--	--	
N w ¼ n e ¼	"	"	"	40	--	--	--	Take out n w n e.
N ½ n w ¼	"	"	"	80	--	--	--	Take out n ½ n w.
All	21	"	"	639	57	--	--	
N ½	19	"	"					
S w ¼	"	"	"					
W ½ s e ¼	"	"	"	598	24	--	--	
S e ¼ s e ¼	"	"	"					
N e ¼ s e	"	"	"	40	--	--	--	Take out.
All	23	"	"	527	09	--	--	
E ½ n e ¼	27	"	"	80	--	--	--	
E ½ s e	"	"	"	80	--	--	--	
S w s e	"	"	"	40	--	--	--	
All	29	"	"	430	--	--	--	
N w n e	31	"	"	40	--	--	--	
N w ¼	"	"	"	159	64	--	--	
N w s w	"	"	"	39	91	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	
E ½	33	"	"	320	--	--	--	
Lots 2, 3, 4	"	"	"	72	60	--	--	
E ½ s w	"	"	"	80	--	--	--	
All	35	"	"	628	35	--	--	
All	31	45	3 e	641	--	--	--	
N e n e	7	43	4 e	40	--	--	--	
209 S w ¼	7	43	4 e	162	09	--	--	
Lot 2	"	"	"	40	80	--	--	
All	17	"	"	536	--	--	--	Take out s e n e & n e s e, n e n e.
All	19	"	"	649	60	--	--	
W ½	3	44	3 w	322	85	--	--	
N e ¼	5	"	"	160	--	--	--	
N ½ n w ¼	"	"	"	80	--	--	--	
Lot 1	"	"	"	130	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼ n e ¼	7	44	3 w					
N w ¼ n e ¼	"	"	"	102	80			
S e ¼ n e ¼	"	"	"					
S w ¼ n e ¼	"	"	"	40				Take out s w n e.
N e ¼ n w ¼	"	"	"	40				
S e ¼ n w ¼	"	"	"	40				Take out s e n w.
N w ¼ n w ¼	"	"	"	39	72			
N e ¼ s e ¼	"	"	"	40				Take out n e s e.
N w ¼	9	"	"	153	40			
S ½	19	"	"	308	47			
W ½	29	"	"	320				
W ½	31	"	"	291	08			
N ½ s e ¼	13	45	3 w	80				
S ½ n e ¼	23	"	"	80				
S w ¼	"	"	"	160				
All	27	"	"	640				
S e ¼ s e ¼	31	"	"	40				
All	33	"	"	640				
S ½ s e ¼	1	44	4 w	80				
N e ¼	13	"	"	160				
N e ¼ n w ¼	"	"	"	40				
N ½ s e ¼	"	"	"	80				
E ½ s e ¼	15	"	"	80				
S w ¼ s e ¼	"	"	"	40				
All	23	"	"	640				
N e ¼	25	"	"	160				
N ½ n w ¼	"	"	"	80				
S w ¼ n w ¼	"	"	"	40				Take out s w n w.
S e n w ¼	"	"	"	40				
N ½ s w ¼	"	"	"	80				
210 S w ¼ s w ¼	25	44	4 w	40				
S e ¼ s w ¼	"	"	"	40				Take — s e s w.
S e ¼	"	"	"	160				
S w ¼ s w ¼	13	43	4 w	40				
S ½	5	41	2 w	320				
E ½	7	"	"					
E ½ n w ¼	"	"	"					
N w ¼ n w ¼	"	"	"	645				Take out.
S w ¼ n w ¼	"	"	"					
S w ¼	"	"	"					
All	9	"	"	640				
N w ¼ n e ¼	15	"	"	40				

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S w ¼ n e ¼	15	41	2 w	40	--	--	--	Take out.
S e ¼ n e ¼	"	"	"	40	--	--	--	Take out.
W ½	"	"	"	320	--	--	--	
S e ¼	"	"	"	160	--	--	--	
All	17	"	"	640	--	--	--	
All	19	"	"	654	82	--	--	
All	21	"	"	640	--	--	--	
All	23	"	"	640	--	--	--	
S e ¼ n e ¼	27	"	"	40	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
N e ¼	29	"	"	160	--	--	--	
N ½ n w ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S e ¼ n w ¼	"	"	"	40	--	--	--	
S ½	"	"	"	320	--	--	--	
All	31	"	"	661	98	--	--	
N w n e	33	"	"	40	--	--	--	
N w ¼	"	"	"	160	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
E ½ s e	"	"	"	80	--	--	--	
All	35	"	"	640	--	--	--	
N w ¼ n w ¼	19	42	2 w	40	12	--	--	
N e ¼ n w ¼	31	"	"	40	--	--	--	
Lot 4	"	"	"	10	40	--	--	Take out.
N w ¼	3	41	3 w	157	53	--	--	Take out s w n w.
211 E ½ s w ¼	3	41	3 w	80	--	--	--	
W ½ s w ¼	5	"	"	80	--	--	--	
E ½ n w ¼	7	"	"	80	--	--	--	Take out.
W ½ s w ¼	"	"	"	89	59	--	--	
S e s w ¼	"	"	"	40	--	--	--	
N e ¼	9	"	"	160	--	--	--	
E ½ n w ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
S w ¼	9	"	"	160	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	Take out.
N w ¼ s e ¼	"	"	"	40	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
Lots 1, 2, 4	11	"	"	97	12	--	--	
All	13	"	"	640	--	--	--	
Lot 1	15	"	"	13	18	--	--	
E ½ n w ¼	"	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼ n w ¼	17	41	3 w	40	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
E ½	25	"	"	320	--	--	--	
N w ¼	"	"	"	160	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼	33	"	"	160	--	--	--	
S e ¼	35	"	"	160	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	
N w ¼ n w ¼	3	42	3 w	41	43	--	--	
S e ¼ s e ¼	5	"	"	40	--	--	--	
E ½ s e ¼	15	"	"	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
N w ¼ n e ¼	19	"	"	40	--	--	--	
N w ¼	"	"	"	164	49	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
212 W ½ s w ¼	19	42	3 w	86	29	--	--	
S ½	21	"	"	320	--	--	--	
N e ¼ n e ¼	29	"	"	40	--	--	--	
N w ¼ n e ¼	"	"	"	40	--	--	--	Take out.
S ½ n e ¼	"	"	"	80	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	Take out.
N w ¼ s e ¼	"	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
N ½ s w ¼	"	"	"	80	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	
S ½ n w ¼	31	"	"	84	97	--	--	
N ½ s w ¼ and s w ¼ s w ¼.	"	"	"	130	69	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
N e ¼ s e ¼	33	"	"	40	--	--	--	
S e ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S w ¼ s e ¼	"	"	"	40	--	--	--	
E ½ n e ¼	35	"	"	80	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
E ½	29	43	3 w	320	--	--	--	
N w ¼	"	"	"	160	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
E ½ s w ¼	29	43	3 w	80				Take out.
N w ¼ s w ¼	"	"	"	40				Take out.
N w ¼ n e ¼	31	"	"	40				Take out.
S w ¼ n e ¼	"	"	"	40				
S e ¼ n e ¼	"	"	"	40				
W ½	"	"	"	331	40			
S e ¼	"	"	"	160				
N ½ n e	33	"	"	80				Take out.
S ½ n e ¼	"	"	"	80				
N e n w	"	"	"	40				Take out.
N w n w	"	"	"	40				
S ½ n w	"	"	"	80				
S ½	"	"	"	320				
E ½ n e	13	41	4 w	80				
S w n e	"	"	"	40				
213 S w ¼	13	41	4 w	160				
N e ¼ s e ¼	"	"	"	40				
W ½ s e ¼	"	"	"	80				
W ½ n w ¼	15	"	"	80				
N w s w	"	"	"	40				
S ½ n e	25	"	"	80				
N e ¼	1	42	4 w	168				
W ½	"	"	"	329	60			
N ½ s e ¼	"	"	"	80				Take out s w s e.
N e ¼ s e ¼	3	"	"	40				
N w ¼ s e ¼	"	"	"	40				Take out.
S ½ s e ¼	"	"	"	80				
N w ¼ n w ¼	11	"	"	40				
S ½ s w ¼	13	"	"	80				
S ½ s e ¼	"	"	"	80				
W ½ n e ¼	15	"	"	80				
S w n e	21	"	"	40				
W ½	"	"	"	320				
N w ¼	23	"	"	160				
E ½	29	"	"	320				
N w ¼	"	"	"	160				
E ½ s w ¼	"	"	"	80				Take out.
N w ¼ s w ¼	"	"	"	40				Take out.
W ½ n e ¼	35	"	"	80				
S e ¼ n e ¼	"	"	"	40				
E ½ n w ¼	"	"	"	80				
S w ¼ n w ¼	"	"	"	40				

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
----	--	43	4 w	------	--	--	--	
N ½	25	43	4 w	320	--	--	--	
S w ¼	"	"	"	160	--	--	--	
N ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	Take out.
S e ¼ s e ¼	"	"	"	40	--	--	--	
N e ¼	35	"	"	160	--	--	--	
Lots 1, 2, 3, 4, & 5	1	42	2 e	168	90	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
S ½ s e ¼	"	"	"	80	--	--	--	
214 N ½ n e ¼	25	43	3 e	80	--	--	--	
N ½ n w ¼	"	"	"	80	--	--	--	
W ½ s w ¼	27	"	"	80	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
S w ¼ s w ¼	35	"	"	40	--	--	--	
N ½	1	39	3 e	------	--	--	--	Lots 1, 2, 3, 4, 5, and s e ¼ s w ¼ & sw ¼ s e ¼ of fractional section 1, 270.06.
S w ¼	"	"	"	------	--	--	--	
N ½ s e ¼	"	"	"	------	--	--	--	
S w ¼ s e ¼	"	"	"	------	--	--	--	
S e ¼ s e ¼	--	--	----	------	--	--	--	Take out.
Lots 1, 2, & 3	11	"	"	120	20	--	--	
S e ¼	"	"	"	160	--	--	--	
W ½ n w ¼	13	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
N ½ n e ¼	23	"	"	80	--	--	--	Take out.
Lots 1 & 2	1	40	3 e	73	20	--	--	
N w ¼ s e ¼	13	"	"	40	--	--	--	
N e ¼ n w ¼	23	"	"	40	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	Take out.
Lots 1 & 2	"	"	"	63	60	--	--	
W ½ n w ¼	25	"	"	80	--	--	--	
Lots 1 & 2	"	"	"	69	90	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	Take out.
Lots 1 & 2	35	"	"	85	30	--	--	
S ½ s w ¼	1	41	3 e	80	--	--	--	
N e ¼ n e ¼	3	"	"	43	04	--	--	
N ½ n e ¼	11	"	"	80	--	--	--	Take out n w n e.
Lot 5	23	"	"	56	30	--	--	
Lot 1	25	"	"	43	70	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ s e ¼	35	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼	1	42	3 e	156	49	--	--	
N ½ n w ¼	"	"	"	76	69	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
S w ¼ n w ¼	"	"	"	------	--	--	--	Take out.
S ½ s w ¼	"	"	"	80	--	--	--	
215 N e ¼ n e ¼ or lot 1.	3	42	3 e	29	30	--	--	
------	"	"	"	------	--	--	--	
S ½ n e ¼	"	"	"	80	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ n e ¼ or lot 2	"	"	"	38	80	--	--	
W ½ s e ¼	"	"	"	------	--	--	--	Take out.
N ½ n w ¼	"	"	"	38	84	--	--	Take out n w n w, 38.88.
S e ¼ n w ¼	"	"	"	40	--	--	--	Take out.
S w ¼ s w ¼	"	"	"	40	--	--	--	
N ½	5	"	"	286	96	--	--	
N ½ s w ¼	"	"	"	------	--	--	--	Take out.
S w ¼ s w ¼	"	"	"	------	--	--	--	Take out.
S e ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
N w ¼ n e ¼ & n e ¼ n w ¼.	7	"	"	80	--	--	--	Take out.
N e n e	"	"	"	40	--	--	--	
S ½ n e	"	"	"	80	--	--	--	
N w ¼ n w ¼	"	"	"	44	55	--	--	
S ½ n w ¼	"	"	"	94	46	--	--	
S ½	"	"	"	328	65	--	--	
E ½	9	"	"	320	--	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
E ½	13	"	"	320	--	--	--	
Lots 2, 3, 4	"	"	"	124	30	--	--	
W ½ n e ¼	15	"	"	80	--	--	--	
W ½	"	"	"	210	30	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
All	17	"	"	431	60	--	--	
Lot 1	21	"	"	27	30	--	--	
S e ¼ n e ½	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
S e ¼ s w ¼	23	"	"	40	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N w ¼ s e ¼	23	42	3 e	40	--	--	--	
W ½ n e ¼	25	"	"	80	--	--	--	
E ½ n w ¼	"	"	"	80	--	--	--	
216 N w ¼ n w ¼	25	42	3 e	40	--	--	--	
N e ¼ s w ¼	"	--	----	40	--	--	--	
N ½ s e ¼	"	--	----	40	--	--	--	Take out.
Lots 1, 2, 3, 4, 5, 6, 7, 11, & 12.	29	--	----	265	52	--	--	
N w ¼ s w ¼	29	--	----	40	--	--	--	
N w ¼ n e ¼	33	--	----	40	--	--	--	
S e ¼ n e ¼	"	--	----	40	--	--	--	
N e ¼ n w ¼	"	--	----	40	--	--	--	
Lots 1, 2, 3, 4	"	--	----	172	25	--	--	
E ½ s e ¼	"	--	----	80	--	--	--	
S w ¼ s e ¼	"	--	----	40	--	--	--	Take out.
S ½ s w ¼	35	--	----	80	--	--	--	
Lot 8	"	--	----	47	--	--	--	
Lots, 1 2, 3, 4, 5, 6, 7, 8, 9, & 11.	25	43	3 e	352	60	--	--	
S w ¼ s w ¼	25	--	----	40	--	--	--	
Lots 1, 3, 4, & 5	27	--	----	135	--	--	--	
E ½ s e ¼	"	--	----	80	--	--	--	
N w ¼ s e ¼	"	--	----	40	--	--	--	
All	29	--	----	640	--	--	--	
N e ¼ n e ¼	31	--	----	40	--	--	--	
Lots 1, 3, 4, 7, 8	"	--	----	131	70	--	--	
Lot 2	"	--	----	27	20	--	--	Take out.
E ½ s e ¼	"	--	----	80	--	--	--	
S w ¼ s e ¼	"	--	----	40	--	--	--	*
N ½	33	--	----					
N ½ s w ¼	"	--	----	80	--	--	--	
S w ¼ s w ¼	"	--	----	605	60	--	--	Take out.
Lot 3 or s w ¼ s w ¼	"	--	----	----	--	--	--	Take out.
S e ¼	"	--	----	----	--	--	--	†
E ½ n e ¼	35	--	----	80	--	--	--	
S w ¼ n e ¼	"	--	----	40	--	--	--	
N w n w ¼	"	--	----	40	--	--	--	
Lots 1, 2, 3, 4, 5	"	--	----	217	50	--	--	
All	3	39	4 e	292	47	--	--	
217 N e frac. ¼	5	39	4 e	14	50	--	--	Take out.

*Lot 1 or n e n e, 38.50; lot 2 or s e n e, 20.50; w ½ n e, 80; n w ¼, 160.
†N e n e, lot 3, 26.60; n w s e, 40; s ½ s e, 80.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
W ½	3	59	4 e	334	16			
S e ¼	"	"	"					
N ½ n e ¼	7	"	"	80				
S ½ n e ¼	"	"	"	80				Take out.
S w ¼ n w ¼	"	"	"	33	95			
S e ¼ n w ¼	"	"	"	40				Take out.
S w ¼	"	"	"	145	80			
All	9	"	"	334	90			
N ½	11	"	"	251	30			
N e ¼ s w ¼	"	"	"	40				Take out.
W ½ s w ¼	"	"	"	80				
N w ¼ s e ¼	"	"	"	40				Take out.
N ½	13	"	"	204	30			
S e ¼ s w ¼	"	"	"	40				
S e ¼	"	"	"	160				
N e ¼	17	"	"	153	50			
S e ¼ n w ¼	"	"	"	40				Take out.
E ½ s w ¼	"	"	"	80				
S w ¼ s w ¼	"	"	"	40				
N e ¼ s e ¼	"	"	"	40				
N w ¼ s e ¼	"	"	"	40				
S w ¼ s e ¼	"	"	"	40				Take out.
N ½	19	"	"	304	25			
N ½	23	"	"	320				
W ½ n e ¼	5	40	4 e	61	44			
E ½ n w ¼	"	"	"	62	08			
S ½	"	"	"	301				
Lots 5 & 6	7	"	"	55	85			
W ½ s w ¼	"	"	"	67	12			
S e ¼ s w ¼	"	"	"	40				
S ½ s w	9	"	"	80				
S ½ s e ¼	"	"	"	80				
N ½	17	"	"	320				
N ½ s w ¼	"	"	"	80				
S w ¼ s w ¼	"	"	"	40				
S e ¼ s w ¼	"	"	"	40				Take out.
S e ¼	"	"	"	160				
218 Lots 6, 8, & 9	19	40	4 e	83	10			
S e ¼ s e ¼	"	"	"	40				
N ½	21	"	"	586				*
S w ¼	"	"	"	160				†
N ½ s e ¼	"	"	"					

*Lot 1 or n e n e, 35.80; lot 2 or s e n e, 33.60; w ½ n e, 80; n w ¼, 160.
†Lot 3 or n e s e, 36.60; n w s e, 40.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S e ¼ s e ¼	21	40	4 e	40				
S w ¼ s e ¼	"	"	"	40				Take out.
E ½	29	"	"	320				
E ½ n e ¼	31	"	"	80				
W ½	"	"	"	521	56			*
S e ¼	"	"	"	160				
W ½ n e ¼	"	"	"	80				Take out.
All	33	"	"	481	50			
N w ¼ n e ¼	5	41	4 e	42	60			
S ½ n e ¼	"	"	"	80				
N w ¼ n w	"	"	"	42	44			
S w ¼ n w ¼	"	"	"	40				Take out.
S e ¼ n w ¼	"	"	"	40				
W ½ s w ¼	"	"	"	80				Take out.
E ½ s w ¼	"	"	"	80				
S e ¼	"	"	"	160				
N e ¼	7	"	"	160				
N e ¼ n w ¼	"	"	"	40				Take out.
N w ¼ n w ¼	"	"	"	43	95			Take out.
N e ¼ s e ¼	"	"	"	40				
N e ¼ n e ¼	9	"	"	40				
E ½ s e ¼	19	"	"	80				
S w ¼ s e ¼	"	"	"	40				
Lot 2	29	"	"	26	60			
N w ¼ n w ¼	"	"	"	40				
Lot 1	3	42	4 e	25	80			
S e ¼ s e ¼	"	"	"	40				
N w ¼ n w ¼	5	"	"	38	17			
S w ¼ s w ¼	7	"	"	43	37			
S e ¼ s e ¼	13	"	"	40				
N e ¼ n w ¼	15	"	"	40				
W ½ n w ¼	"	"	"	80				
219 N w ¼ n e ¼	17	42	4 e	40				
N w ¼	"	"	"	160				
N w ¼ s w ¼	"	"	"	40				
E ½ s e ¼	19	"	"	80				
S w ¼ s e ¼	"	"	"	40				
Lots 1, 2, 3, 4, & 5	23	"	"	235	95			
E ½ s w ¼	"	"	"	80				
S ½ s e ¼	"	"	"	80				
S e ¼	25	"	"	160				

*Lot 1, n w n w, 26.82; lot 2, s w n w, 30.80; e ½ n w, 80; s w ¼, 144.44.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S w ¼ s w ¼	27	42	4 e	40	--	--	--	
N w ¼ n w ¼	29	"	"	40	--	--	--	
N e ¼ n e ¼	33	"	"	40	--	--	--	
N e ¼	27	"	"	160	--	--	--	Take out.
W ½ s e ¼	"	"	"	80	--	--	--	Take out.
E ½ n e ¼	29	"	"	80	--	--	--	Take out.
N w ¼ n e ¼	"	"	"	40	--	--	--	Take out.
Lots 3, 4, 5, & 6	"	"	"	170	10	--	--	Take out.
S e ¼	"	"	"	160	--	--	--	Take out.
All	31	"	"	639	65	--	--	Take out.
E ½ n e ¼	5	39	5 e	13	66	--	--	
Lots 1 & 5	"	"	"	64	80	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
N e ¼	7	"	"	160	--	--	--	
Lots 2, 3, 4, 5, 6, & 9	"	"	"	185	15	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
Lots 1, 2, 3, & 4	17	"	"	127	--	--	--	
" 1 & 2	19	"	"	70	95	--	--	
W ½ n w	"	"	"	91	60	--	--	
N e ¼ n e ¼	19	42	5 e	40	--	--	--	
Lots 1, 2, 4, & 6	"	"	"	132	25	--	--	
N w ¼ n w ¼	"	"	"	34	41	--	--	Take out.
S w ¼ n w ¼	"	"	"					
S ½ s e ¼	"	"	"	80	--	--	--	
Lot 1	31	"	"	41	31	--	--	
220 Lot 7	7	40	1 w	27	85	--	--	
E ½ s w	9	"	"	80	--	--	--	
W ½ s e ¼	17	"	"	80	--	--	--	
N w ¼	19	"	"	182	21	--	--	
N e ¼ n e ¼	21	"	"	40	--	--	--	
N e ¼	7	40	"	160	--	--	--	
S ½ n w ¼	"	"	"	99	66	--	--	
S w ¼	"	"	"	197	93	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
Lots 1, 2, 3, 4, & 5	17	"	"	174	72	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
All	19	"	"	720	64	--	--	Agrees with lower 40–1 west.
S e ¼ n e ¼	21	"	"	40	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
N e ¼ s e ¼	21	40	1 w	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
N e ¼	29	"	"	160	--	--	--	∂ n e n e.
W ½	"	"	"	320	--	--	--	
N e ¼ s e ¼	"	"	"	40	--	--	--	
W ½ s e ¼	"	"	"	80	--	--	--	
N w ¼ n e ¼	31	"	"	40	--	--	--	
N w ¼	"	"	"	194	13	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
N ½ s w ¼	"	"	"	95	67	--	--	
N e ¼	1	39	2 w	155	94	--	--	∂ n w n e. } Se- p. 35
W ½	1	"	"	312	74	--	--	∂ s e s w. } of patent.
N w ¼	5	"	"	152	60	--	--	
N e ¼	9	"	"	160	--	--	--	∂ s e n e.
E ½ s w ¼	"	"	"	80	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
N e ¼ n w ¼	11	"	"	40	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
Lots 2 & 5	"	"	"	86	25	--	--	
221 Lots 1, 2, 3	13	39	2 w	96	10	--	--	
N w ¼ n e ¼	15	"	"	40	--	--	--	
E ½ n w ¼	"	"	"	80	--	--	--	∂ n e n w. (See p. 35 of patent.)
S w ¼ n w ¼	"	"	"	40	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
S w ¼ n e ¼	17	"	"	40	--	--	--	
Lot 2	"	"	"	56	02	--	--	
Lots 3, 4, 5, & 6 (or n w ¼).	19	"	"	152	62	--	--	
E ½ n e ¼	23	"	"	80	--	--	--	
S w ¼ n e ¼	"	"	"	40	--	--	--	
Lots 1, 3	"	"	"	74	14	--	--	
S e ¼ n w ¼	"	"	"	40	--	--	--	
N e ¼	1	40	"	160	61	--	--	
N w ¼ n w ¼	"	"	"	39	98	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
All	3	"	"	635	58	--	--	
N ½ n w ¼	5	"	"	76	75	--	--	
N w ¼	"	"	"	156	25	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S e ¼ s e ¼	1	40	2 w	40	--	--	--	
S e ¼ s e ¼	7	"	"	40	--	--	--	
N ½	9	"	"	320	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s e ¼	"	"	"	40	--	--	--	
All	11	"	"	640	--	--	--	
S ½ n e ¼	13	"	"	80	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
S ½	13	"	"	320	--	--	--	
All	15	"	"	562	62	--	--	ð n w n e.
N ½	23	"	"	320	--	--	--	ð n w n e, n e n w. (See p. 35 of patent.)
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
E ½	25	"	"	320	--	--	--	
S w ¼	"	"	"	160	--	--	--	
S e ¼ s e ¼	27	"	"	40	--	--	--	
222 N e ¼ s w ¼	31	40	2 w	40	--	--	--	
W ½ s w ¼	"	"	"	68	80	--	--	
S w ¼ s e ¼	33	"	"	40	--	--	--	
W ½ s e ¼	1	39	3 w	80	--	--	--	
Lots 1 & 2	"	"	"	30	24	--	--	
E ½ n w ¼	13	"	"	80	--	--	--	
All	1	40	"	624	26	--	--	
N w ¼ n e ¼	3	"	"	36	43	--	--	
E ½ n w ¼	"	"	"	76	68	--	--	
W ½ s w ¼	"	"	"	80	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
E ½	5	"	"	312	88	--	--	
N w ¼	"	"	"	153	04	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ s w ¼	"	"	"	40	--	--	--	
All	9	"	"	640	--	--	--	ð n w n e, s e n e, n e s e.
S e ¼ n e ¼	11	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
N w ¼ n w ¼	"	"	"	40	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
All	15	"	"	640	--	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
W ½	23	40	3 w	320	--	--	--	
S e ¼ n w ¼	5	41	1 w	40	--	--	--	∂
S e ¼ n e ¼	1	41	2 w	40	--	--	--	∂
N ½ n e ¼	3	"	"	83	66	--	--	∂
S e ¼ n e ¼	3	40	1 w	120	53	--	--	
W ½ n e ¼	"	"	"					
S ½	"	"	"	320	--	--	--	
N e ¼ n e ¼ & s ½ n e ¼	9	"	"	120	--	--	--	
S e ¼ s e ¼ & n w ¼ s e ¼	"	"	"	80	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
S ½ s w ¼	"	"	"	80	--	--	--	
N e ¼	15	"	"	160	--	--	--	
N e ¼ n w ¼	"	"	"	40	--	--	--	
S ½ n w ¼	"	"	"	80	--	--	--	
223 S w ¼	15	40	1 w	160	--	--	--	
W ½	23	"	"	320	--	--	--	
E ½	25	"	"	320	--	--	--	
E ½	27	"	"	320	--	--	--	
Lots 2, 3, 4, 5, 6	35	"	"	237	75	--	--	
N w ¼ n w ¼	"	"	"	40	--	--	--	
S e ¼ n e ¼	"	"	"	40	--	--	--	
S e ¼	"	"	"	160	--	--	--	
S w ¼ s w ¼	"	"	"	40	--	--	--	
N w ¼ s w ¼	11	39	2 e	40	--	--	--	∂
N w ¼ n e ¼	17	"	"	40	--	--	--	∂
N ½ s w ¼	5	40	2 e	80	--	--	--	∂
S w ¼ n w ¼	13	"	"	40	--	--	--	∂
S ½ n e ¼	15	"	"	120	--	--	--	∂
N e ¼ s w ¼	"	"	"					
S w ¼ s e ¼	19	"	"	40	--	--	--	∂
S w ¼ n w ¼	29	"	"	40	--	--	--	∂
N w ¼ n w ¼	15	41	2 e	40	--	--	--	∂
S ½ s w ¼	17	"	"	80	--	--	--	∂
N e ¼ s w ¼	3	42	2 e	40	--	--	--	∂
N w ¼ s e ¼	11	"	"	40	--	--	--	∂
Lot 4	"	"	"	35	70	--	--	∂
N w ¼ s w ¼	21	"	"	40	--	--	--	∂
Lots 1, 2, 3	25	"	"	------	--	--	--	
N ½ n w ¼	27	"	"	80	--	--	--	∂
S w ¼ n w ¼	33	"	"	40	--	--	--	∂
N w ¼ s w ¼	7	43	2 e	43	02	--	--	∂
S e ¼ s e ¼	19	"	"	40	--	--	--	∂

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
S w ¼ s e ¼	21	43	2 e	40	--	--	--	δ
E ½ s w ¼	29	"	"	80	--	--	--	δ
S e ¼ s w ¼	17	39	3 e	40	--	--	--	
W ½ n w ¼ & w ½ s w ¼	19	41	"	178	78	--	--	δ
S e ¼ s w ¼	29	"	"	40	--	--	--	δ
N e ¼	31	"	"	160	--	--	--	δ
S w ¼ n e ¼	33	"	"	40	--	--	--	
S w ¼ n w ¼	23	26	6 e *	40	--	--	--	δ
224 Lots 15 & 19	19	33	1 e	76	30	--	--	
Lot 7	31	"	"	------	--	--	--	
Lot 2	17	37	1 e	33	80	--	--	
E ½ n e ¼	5	39	1 e	53	26	--	--	
S w ¼ n w ¼	13	"	"	40	--	--	--	
S e ¼ n w ¼	17	"	"	40	--	--	--	δ
Lot 16	19	"	"	49	94	--	--	
N w ¼ n e ¼	23	"	"	40	--	--	--	
N w ¼ s w ¼	1	40	1 e	40	--	--	--	
N ½ n e ¼	7	"	"	80	--	--	--	
Lot 1	"	"	"	} 101	53	--	--	δ
Lots 15 & 16	"	"	"					
S e ¼ s w ¼	9	"	"	40	--	--	--	
N e ¼ n e ¼	17	"	"	40	--	--	--	
N w ¼ n w ¼	35	"	"	40	--	--	--	
S e ¼ s w ¼	"	"	"	40	--	--	--	
E ½ s e ¼	"	"	"	80	--	--	--	
S w ¼ s e ¼	"	"	"	40	--	--	--	
N w ¼ n w ¼	11	27	1 w	40	--	--	--	
S w ¼ s w ¼	15	33	1 w	40	--	--	--	
W ½ s e ¼	25	36	1 w	80	--	--	--	
S ½ s w ¼	1	39	1 w	80	--	--	--	
E ½	3	"	"	320	39	--	--	
S e ¼ s e ¼	11	"	"	40	--	--	--	
N e ¼ n w ¼	15	"	"	40	--	--	--	
N w ¼ n w ¼	"	"	"	40	--	--	--	δ
W ½ s w ¼	"	"	"	80	--	--	--	
S e ¼ n w ¼ & s e ¼ s w ¼.	23	"	"	80	--	--	--	δ s e n w ¼. See p. 35 of patent.
N e ¼ n e ¼	3	19	7 e	43	83	--	--	
S w ¼ s w ¼	15	23	7 e	40	--	--	--	
S w ¼ s e ¼	25	"	"	40	--	--	--	

* Put dec. here.

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.	
W ½ s w ¼	31	24	7 e	61	58	--	--	
S e ¼ n w ¼	5	24	8 e	40	--	--	--	
S w ¼ s w ¼	33	16	9 e	40	--	--	--	
S w ¼ n e ¼	35	17	9 e	40	--	--	--	δ
W ½ s e ¼	19	19	"	80	--	--	--	
S w ¼ n w ¼	29	"	"	40	--	--	--	
E ½ s e ¼	21	20	"	80	--	--	--	
225 E ½ n e ¼	11	21	9 e	80	--	--	--	
Lots 5 & 8	7	22	9 e	80	--	--	--	
Lot 19	19	"	"	47	25	--	--	δ
N w ¼ s w ¼	23	"	"	40	--	--	--	
N w ¼ s w ¼	13	23	9 e	40	--	--	--	
Lots 23 & 24	19	25	"	80	--	--	--	
S ½ n w ¼	"	16	10 e	65	52	--	--	δ
N w ¼ n e ¼	27	17	"	40	--	--	--	
W ½ n w ¼	1	22	4 e	83	80	--	--	
S e ¼ n w ¼	11	23	"	40	--	--	--	
S ½ n e ¼	3	22	5 e	80	--	--	--	
Lot 7 (s w ¼ s e ¼)	"	27	7 e	98	56	--	--	
Unsurveyed island in s e ¼ of s e ¼ of—	17	27	7 e	------	--	--	--	δ
N ½ n w ¼	31	26	8 e	53	70	--	--	
Lots 3, 6, & 7	1	25	9 e	120	--	--	--	
" 1 & 5	3	"	"	96	86	--	--	
" 4 & 5	7	"	"	80	--	--	--	
W ½ s e ¼	13	"	"	80	--	--	--	
E ½ n e ¼	15	"	"	80	--	--	--	
S w ¼ n e ¼	"	"	"	40	--	--	--	
E ½ s w ¼	"	"	"	80	--	--	--	
S ½ n w ¼	17	"	"	80	--	--	--	
N e ¼ s w ¼	"	"	"	40	--	--	--	
N w ¼ s e ¼	23	"	"	40	--	--	--	
N w ¼ s e ¼	25	"	"	40	--	--	--	
S e ¼ n e ¼	35	"	"	40	--	--	--	
N ½ s e ¼	25	26	9 e	80	--	--	--	
S e ¼ s e ¼	29	"	"	40	--	--	--	
E ½ n w ¼	35	"	"	80	--	--	--	
S w ¼ n w ¼	"	"	"	40	--	--	--	
Lot 2, e ½ s e ¼, e ½ s w ¼, s w ¼ s w ¼.	1	25	10 e	254	16	--	--	
Lots 1, 2, 5, 6, & 7	3	"	"	277	56	--	--	

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.		
E ½ n w ¼, n w ¼ n w ¼, n e ¼ s e ¼, e ½ s w ¼, s w ¼ s w ¼ of—	3	25	10 e	321	38	--	--		
226 S e ¼ n w ¼, n w ¼ n w ¼.	19	25	10 e	81	84	--	--		
N ½ s e ¼	23	"	"	80	--	--	--		
S ½ n w ¼	29	"	"	80	--	--	--		
S w ¼ n w ¼	31	"	"	43	36	--	--		
S w ¼ s w ¼	35	"	"	40	--	--	--		
E ½ n e ¼	7	26	10 e	80	--	--	--		
S w ¼ s e ¼	"	"	"	40	--	--	--		
S e ¼ s w ¼	"	"	"	40	--	--	--		
E ½ s e ¼	17	"	"	80	--	--	--		
S w ¼ s e ¼	"	"	"	40	--	--	--		
E ½ n e ¼	19	"	"	80	--	--	--		
N w ¼	29	"	"	160	--	--	--		
N e ¼ s w ¼	"	"	"	40	--	--	--		
W ½ s w ¼	"	"	"	80	--	--	--		
S e ¼ n w ¼	31	"	"	40	--	--	--		
N e ¼ s w ¼	"	"	"	40	--	--	--		
W ½ n e ¼	33	"	"	80	--	--	--		
E ½ n w ¼	"	"	"	80	--	--	--		
E ½ s w ¼	"	"	"	80	--	--	--		
S e ¼	"	"	"	160	--	--	--		
W ½ n e ¼	35	"	"	80	--	--	--		
N w ¼ n w ¼	"	"	"	40	--	--	--		
N e ¼ s w ¼	"	"	"	40	--	--	--		
N w ¼ s e ¼	"	"	"	40	--	--	--		
S e ¼ n e ¼	29	26	1 w	40	--	--	--		
N e ¼ n e ¼	7	27	1 w	40	--	--	--		
S w ¼	15	28	"	160	--	--	--		
S w ¼ s e ¼	27	"	"	40	--	--	--		
N ½ s w ¼	25	27	2 w	80	--	--	--		
W ½ s e ¼	"	"	"	80	--	--	--		
S w ¼	31	34	2 w	164	49	--	--		
S w ¼ n e ¼ & s w ¼ n w ¼, n w ¼ s e ¼.	31	35	2 w	116	95	--	--		
N e ¼	7	39	2 w	160	--	--	--		
N e ¼ s e ¼	"	"	"	40	--	--	--		
W ½ s e ¼	"	"	"	80	--	--	--		
227 N e ¼ n e ¼	29	41	1 e	40	--	--	--	Take out.	1

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.		
N w ¼ n e ¼	29	41	1 e	40	--	--	--	" "	1
Lot 9	33	"	"	26	10	--	--		
N w ¼ n e ¼, n e ¼ n w ¼.	1	42	1 e	83	79	--	--		
N e ¼ s w ¼	7	"	"	40	--	--	--	Take out.	2
E ½	9	"	"	320	--	--	--	" "	3
S w ¼ n w ¼	13	"	"	40	--	--	--		
W ½ s w ¼	"	"	"	80	--	--	--		
N w ¼ n e ¼	15	"	"	80	--	--	--		
S w ¼ s w ¼	"	"	"	------	--	--	--	Take out.	4
S e ¼ s w ¼	21	"	"	40	--	--	--		
S e ¼ n e ¼	23	"	"	40	--	--	--	Take out.	5
N w ¼ n e ¼	25	"	"	40	--	--	--	" "	6
S e ¼ n e ¼	33	43	1 e	80	--	--	--	" "	7
N e ¼ s e ¼	"	"	"	------	--	--	--	" "	8
N w ¼ n e ¼, n e ¼ n w ¼, & s e ¼ s w of—	35	43	1 e	120	--	--	--		
N w ¼ n w ¼	25	43	1 w	120	--	--	--	Take out.	
S e ¼ n w ¼								" "	9
N w ¼ s e ¼								" "	10
S e ¼ n w ¼ &	27	43	1 w	80	--	--	--	" "	11
N e ¼ s e ¼								" "	12
S e ¼ s w ¼	29	"	"	40	--	--	--	" "	13
N e ¼ s w ¼	31	"	"	40	--	--	--		14
S w ¼ s e ¼	33	"	"	40	--	--	--	Take out.	
S e ¼ n e ¼ &	35	"	"	80	--	--	--	" "	15
S w ¼ n w ¼								" "	16
S w ¼ n w ¼	5	44	1 w	40	--	--	--		
N e ¼ n w ¼	15	42	2 w	40	--	--	--		
Lot 3	21	"	"	------	--	--	--	? Take out.	17
N w ¼ n e ¼	25	"	"	40	--	--	--	" "	18
Lot 8	27	"	"	------	--	--	--	? " "	19
N w ¼ n w ¼	1	43	2 w	37	05	--	--	" "	20
S e ¼ n e ¼	27	"	"	40	--	--	--	" "	21
S e n e ¼	29	"	"	40	--	--	--		
N e ¼ n e ¼	13	42	3 w	40	--	--	--	Take out.	22
S w ¼ n e ¼	25	43	3 w	40	--	--	--	" "	23
228 S e ¼ n w ¼, e ½ s w ¼.	35	43	3 w	120	--	--	--	Take out.	25
Lot 3	33	41	1 w	37	18	--	--	" "	26
W ½ s w ¼	21	42	1 w	80	--	--	--	" "	27

Parts of sections.	Section.	Township.	Range.	Surveyed area. Acres.	Surveyed area. H'd'ths.	Total area. Acres.	Total area. H'd'ths.		
S ½	35	41	32	0 1 e	--	--	--	N ½ s w ¼. out.	Take 28
S w ¼ n e ¼	29	43	2 w	40	--	--	--		
S w ¼ n w ¼	7	41	3 w	44	90	--	--		
Lot 2	29	41	"	1	43	--	--		
E ½ n e ¼, s w ¼ n e ¼, & W ½ n w ¼ of	1	42	1 e	203	79	--	--	Take out.	29 30
S e ¼ n w ¼	"	"	"	40	--	--	--		
N ½ s w ¼	"	"	"	120	--	--	--	Take out.	31
S e ¼ s w ¼	"	"	"	----	--	--	--		32
S e ¼	"	"	"	160	--	--	--	Take out.	33
All	11	"	"	640	--	--	--	" "	34
N ½ n w ¼, s e ¼ n w ¼	13	"	"	120	--	--	--	" "	35
E ½ s w ¼	"	"	"	80	--	--	--	" "	36
S e ¼	"	"	"	160	--	--	--	" "	37
E ½ n e ¼	15	"	"	80	--	--	--	" "	38
S w ¼ n e ¼	"	"	"	40	--	--	--	" "	39
N w ¼	"	"	"	160	--	--	--	N w n w & s ½. * Take out.	40
N ½ s w ¼	"	"	"	80	--	--	--	Take out.	41
S e ¼ s w ¼	"	"	"	80	--	--	--	" "	42
S e ¼	"	"	"	160	--	--	--	" "	43
E ½ n e ¼	35	43	1 e	80	--	--	--	" "	44
S w ¼ n e ¼	"	"	"	40	--	--	--	" "	45
W ½ n w ¼	"	"	"	80	--	--	--	" "	46
S e ¼ n w ¼	"	"	"	40	--	--	--	" "	47
N ½ s w ¼	"	"	"	80	--	--	--	" "	48
S w ¼ s w ¼	"	"	"	40	--	--	--	" "	49
S e ¼	"	"	"	160	--	--	--	" "	50
N w ¼ s e ¼	3	38	1 e	40	--	--	--	" "	51
W ½ n e ¼	5	39	1 e	56	26	--	--		
Lots 1 & 2	19	"	"	80	--	--	--		
N e ¼ n e ¼	33	"	"	40	--	--	--		
N e ¼ n e ¼	7	36	1 w	40	--	--	--	Take out.	52
Lot 8 of	17	38	1 w	61	45	--	--		
Lot 1 of	9	39	1 w	------	35	--	--		
229 S w ¼ s w ¼	31	40	1 w	54	74	--	--		
S w ¼ s e ¼	25	37	2 w	40	--	--	--		
E ½ s e ¼	"	"	"	80	--	--	--		
N e ¼ n w ¼	1	40	2 w	40	11	--	--		
S w ¼ s e ¼	9	"	"	40	--	--	--	Take out.	24

*[In pencil:] Put correction in at the end.

Parts of sections.	Section.	Township.	Range.	Surveyed area.		Total area.	
				Acres.	H'd'ths.	Acres.	H'd'ths.
N ½ n e ¼	27	43	4 e	80	--	--	--
S w ¼ n e ¼	"	"	"	40	--	--	--
W ½ s e ¼	"	"	"	80	--	--	--
E ½ n e ¼	29	"	"	80	--	--	--
N w ¼ n e ¼	"	"	"	40	--	--	--
Lots 3, 4, 5 & 6	"	"	"	170	10	--	--
S e ¼	"	"	"	160	--	--	--

(Endorsements:) Wisconsin Central railroad. Application for lands herein described. February 25, 1884. Patent issued for 188,160.26 acres of these lands. Exhibit " B," referred to in the deposition of L. J. Rusk. F. W. Hall, notary. State of Wisconsin, executive department. Received & filed this 14th day of February, 1884. L. J. Rusk, private sec't'y. Filed December 27th, 1884. Charles H. Darlington, clerk, by N. F. Norlin, deputy Cir. c't. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

230 *Bill of Exceptions.*

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
ag'st
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants. } Suit No. 6.

Proposed amendments to defendants' proposed bill of exceptions.

The above-named plaintiff, by Edwin H. Abbot, its attorney, proposes the following amendments to the defendants' proposed bill of exceptions:

Insert after the deposition of E. H. Abbot (folio 386):

First. The certificate of L. Harrison, acting Commissioner of the General Land Office, dated Jan'y 5, 1885.

Second. The certified copy of a letter from W. K. Mendenhall to the Commissioner of the General Land Office, asking to have patents issued to the Wisconsin Central Railroad Company for certain lands therein mentioned.

Third. Certified copy of office letter, dated Nov. 16th, 1877, from Hon. C. A. Williamson, Commissioner of the General Land Office, to Hon. Carl Schurz, Secretary of the Interior, submitting list number

eight (8) of selections of Wisconsin Central Railroad Company to Secretary of Interior for his approval.

Fourth. Certificate of L. Harrison.

231 Fifth. Certified copy of letter from Secretary of Interior, dated Dec. 26, 1877.

Seventh. Copy of commission given by the Governor of Wisconsin to Edwin H. Abbot, appointing him special agent and attorney of the State of Wisconsin to procure said lands described in plaintiff's complaint, with others—copies of all of said documents being hereto attached and read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Jan'y* 5, 1885.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed copies of letter from W. K. Mendenhall, date- October 4, 1877, asking for patents for certain lands selected by the Wisconsin Central Railroad Company, and letter from Secretary of the Interior, dated Dec. 26th, 1877, approving list number 8 of selections by the Wisconsin Central Railroad Company, have been by me carefully compared with the originals thereof on file in my office, and that each such copy is a true copy of such original and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of the General Land Office.

232 WASHINGTON, D. C., *Oct.* 4, 1877.

Hon. J. A. Williamson, Comms. G. L. Office.

SIR: The Wisconsin Central Railroad Company having learned that, in view of the decision of the U. S. Sup. C't in case of Leav., Law. & Gal. R. R'd Co. *vs.* U. S. to the effect that indemnity was granted only for lands sold or disposed of since the date of the grant, the Department requires an examination upon that principle of all railroad grants, it (the company) has made an examination of the land records and finds that since May 5th, 1864, the date of its grant, there has been disposed of not less than 160,167.04 acres of land, for which quantity it is entitled to indemnity.

That as indemnity the company has received patents for 203,459.62 acres, being 43,292.58 acres in excess of the indemnity due under the principal of the Court decision.

The company has before your office for approval and patent 102,930.09 acres of lands "in place," and for which it desires immediate patents. It has yet to be selected of lands in "place" 86,000 acres. This doubly offsetts the excess in indemnity patented, so that the Government is amply secured in that respect.

The company therefore asks that you will have patented at once

the 102,930.09 acres "in place," for which lists are now before you.

233 The company has also selected and paid fees on 167,072.14 acres of indemnity, which, under the Court decision, cannot be obtained by it. The fees thus paid amount to $2,087.13, distributed through the Eau Claire, Wausau, & Bayfield offices

The 86,000 acres yet to be selected are distributed through the same offices, and the company requests that instructions be sent to those offices to receive and approve the selections without the payment of further fees.

This has been the usual course in other grants where excess of fees have been paid. We would ask that the instructions be issued at once, as the lists are made out and only await these orders from you to be perfected.

Very respectfully, W. K. MENDENHALL,
For Wis. Cent. R. R. Co.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *November* 16, 1877.

Hon. C. Schurz, Secretary of the Interior.

SIR: I have the honor to submit herewith for approval list No. 8 of selections by the Wisconsin Central Railroad Company, containing 102,732.49 acres granted in the Eau Claire, Wausau, and

234 Bayfield districts, Wisconsin, by the act of Congress approved May 5, 1864.

In this connection I desire to state that an examination of the records of this office shows that the number of acres in odd-numbered sections within the granted or ten-mile limits of said road is 1,377,383.93. The number of acres disposed of by the Government prior to the passage of the granting act is 789,622; the number of acres disposed of subsequent to said date, but prior to the definite location of the line of the road, is 161,659.53.

The quantity patented to the company within the granted limits aggregates 240,363.54 acres, and the quantity patented within the indemnity limits amounts to 203,459.62 acres.

It has been the practice of this office and Department since the inauguration of the railroad land-grant system to allow indemnity for all lands lost to the grant by reason of sale, reservation, &c., prior to the definite location of the road; but by the decision of the Supreme Court of the United States in the case of the Leavenworth, Lawrence and Galveston Railroad Company *vs.* United States (2 Otto) it would appear that that practice was erroneous: that indemnity could only by allowed for lands sold or disposed of after the passage of the granting act. On this subject the court say: "The only purpose of that clause (indemnity) is to give lands outside of the ten-mile limits for those lost inside by the action of the Gov-

235 ernment in keeping the land offices open between the date of the granting act and the locating of the road."

Applying this rule to the grant under consideration, the company

has received patents for 41,820.09 acres excess of the indemnity authorized by the granting act.

The tracts embraced in the list herewith, together with those heretofore selected and patented, aggregate 343,096.03 acres, leaving yet unselected 83,006.37 acres in the granted limits.

It is proposed by Mr. W. K. Mendenhall, resident attorney for the company, that the Government issue patents for the tracts embraced in the list now submitted and authorize the selection of the 83,006.37 acres aforesaid, but that the last amount shall be withheld from patents until arrangements can be made by which the excess indemnity patented can be reconveyed to the United States. I would recommend that this proposition be acceded to.

The company has selected and paid fees upon 167,072.14 acres of indemnity lands which have not as yet been patented.

It is desired that the fees thus paid may be applied to the tracts in the granted limits yet to be selected.

236 I would recommend that this request be denied. The selections were made under a supposed correct construction of the grant, and the fees paid thereon were for services performed by the local officers.

I do believe that because the selections were erroneously made that the additional labor of examining and certifying a second list should be imposed upon the local officers.

Under the 1st selection of the act of July 1, 1864, it is held that the registers and receivers are each entitled to receive a fee of one dollar for each selection of 160 acres, and I am of opinion that the company should be required to pay the fees prescribed thereby should the selection of the tracts in the granted limits be authorized.

I enclose herewith two letters from Mr. Mendenhall upon the subject of this communication, dated October 4 and 18, 1877.

Very respectfully yours ob't serv't,

J. A. WILLIAMSON,
Commissioner.

237 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Jan'y* 5, 1885.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of office letter, dated Nov. 16, 1877, submitting list number 8 of selections by the Wisconsin Central Railroad Company to Secretary of Interior for approval has been by me carefully compared with the original thereof of record in my office, and that such copy is a true copy of such original and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *Dec.* 26, 1877.

SIR: Referring to your letter of the 16th ulto. transmitting for approval list No. 8 of selections by the Wisconsin Central Railroad Company, containing 102,732.49 acres granted in the Eau
238 Claire, Wausau, and Bayfield districts, Wisconsin, by the act of Congress approved May 5, 1864, I have to state that I have this date approved the same, and it is herewith returned.

In your communication you state that the records show that there are 1,377,383.93 acres within the granted ten-mile limits of said compan*ie*'s road; that the number of acres disposed of by the Government prior to the granting act was 789,622 acres, and that the number of acres disposed of between the date of the granting act and the definite location of the road was 161,695.53 acres, and that the quantity patented to the company within the indemnity limits amounts to 203,495.62 acres.

The Supreme Court of the United States, in its elaborate decision in the case of The Leavenworth, Lawrence and Galveston Railroad Company *vs.* The United States, reaffirmed the doctrine formerly announced, "that a tract lawfully appropriated to any purpose becomes thereafter severed from the mass of public lands, and that no subsequent law or proclamation will be construed to embrace it or to operate upon it, although no exception be made of it."

It follows that land lawfully sold or disposed of by the United States prior to the passage of the act granting lands to the
239 State of Wisconsin was excepted from the operation of said grant, and, if so, indemnity can be obtained for the land thus lost.

On this point the court, in the case before cited, say: "The indemnity clause has been insisted upon. We have before said that the grant itself was *in presenti* and covered all the old sections which should appear in the location of the road to have been within the grant when it was made.

"The right to them did not, however, depend on such location, but attached at once on the making of the grant. It is true they could not be identified until the line of the road was marked out on the ground, but as soon as this was done it was easy to find them. If the company did not obtain all of them within the original limit by reason of the power of sale or reservation obtained by the United States it was to be compensated by an equal amount of substituted lands. The latter could not on any contingency be selected within that limit, and the attempt to give this effect to the clause receives no support either in the scheme of the act or in anything that has been urged by counsel.

"It would be strange indeed if the clause had been intended to perform the office of making a new grant within the ten-mile limit or enlarging the one already made.

240 "Instead of this the words employed show clearly that its only purpose is to give sections beyond that limit for those lost within it by the action of the Government between the date of the grant and the location of the road. This construction gives

effect to the whole statute and makes each part consistent with the other.

"But even if the clause were susceptible of a more extended meaning it is still subject to and limited by the proviso which excludes all lands reserved at the date of the grant and not simply those found to be reserved when the line of the road shall be definitely fixed. The latter contingency had been provided for in the clause, and if the proviso did not take effect until that time it would be unnecessary; and these lands being within the terms of the proviso, as we construe it, it follows that they are absolutely and unconditionally excepted from the grant, and it makes no difference whether or not the subsequently became a part of the public lands of the country."

The indemnity clause in the act of May 5, 1864 (13 Stat., 66), is in substance the same as the indemnity clause in the act of March 3, 1863 (12 Stat., 772). Applying this rule to the grant now under consideration, it will be seen that there has been patented to the Wisconsin Central Railroad Company 41,800.09 acres in excess of what it is entitled to.

241 You are therefore instructed to call upon the company to relinquish its claims to the said quantity of land, in order that the same may be restored to the public domain.

It appears from the statement of Mr. Mendenhall, attorney for the company, that it has caused to be selected 167,072.14 acres as indemnity lands and paid the fees thereon, amounting to $2,087.13. Under the rule announced by the court above cited these lands cannot be patented to the company, and the request is made that credit be given for the fees thus paid to apply on the lands to be selected in place.

The fees thus received by the local officers were paid as compensation under the provisions of section 2238 of the Revised Statutes for labor actually performed at the request of the company, and there is no law which authorizes this Department to require local officers to perform the additional labor of making new selections without compensation. Your recommendation that the request be denied is approved.

The company also requests that, in view of the changed practice in the adjustment of indemnity lands, it be permitted to relinquish its claim to the lands already patented and select others within its indemnity limits where most convenient and desirable.

The basis of this request is that, under the rule of this Department in force prior to the decision of the Supreme Court above
242 cited, the company would have received all the vacant lands in the indemnity limits; hence its selections were made in a body, taking all the vacant lands in the several sections along the line of the road, but under the rule now in force in the Department the selections would be differently made.

The lands for which patents have issued were voluntarily selected by the company.

The Government and the public have been influenced in their action by this adjustment, and I see no sufficient reason why it

should be set aside and the additional labor and expense incident to the adjustment of new selections incurred.

The request is therefore denied.

The papers in the case are herewith returned.

Very respectfully, C. SCHURZ, *Secretary.*

THE STATE OF WISCONSIN:

The Commissioner of the General Land Office to all to whom these presents shall come, Greeting:

Whereas certain public lands in the State of Wisconsin were, by act of Congress approved May 5, 1864, granted to said State to aid in the construction of certain railroads therein; and

Whereas a difference of opinion exists as to the proper construction of said grant and the rights of the State and the railway
243 companies thereunder, particularly as to the land granted by section 3 of said act in aid of the road now known as the Wisconsin Central railroad; and

Whereas the completion of said road in its entirety is thereby delayed, to the great loss and damage of said State:

Now, therefore, I, William E. Smith, Governor of the State of Wisconsin, reposing special trust and confidence in the integrity and ability of Edwin H. Abbot, Esquire, do hereby appoint him the special agent and attorney of said State to procure said lands and the issue of patents therefor by the United States, as provided in said act, for the purpose of aiding in the construction of said Wisconsin Central railroad, and do give and confer upon him full authority to make, in the name of the State of Wisconsin, any and all proper demands therefor upon any and all persons, and to institute such legal proceedings in the name of said State as he may deem expedient to this end as well before the several Departments of the Government of the United States as in the proper courts, and do appear and prosecute the same to final determination for and in the name of the State of Wisconsin: Provided, however, That this appointment may be revoked and determined at the pleasure of the Governor of said State for the time being: And provided further,
244 That said State shall not be or become liable to pay for any services rendered or expenses incurred by said attorney by reason hereof.

In testimony whereof I have hereunto set my hand and caused the great seal of the State of Wisconsin to be affixed.

Done at the capitol, in the city of Madison, this thirteenth day of January, in the year of our Lord one thousand eight hundred and seventy-nine.

WILLIAM E. SMITH.

By the Governor:

[SEAL.] HANS B. WARNER,
Secretary of State.

Ninth. Strike out the last line in folio 265 and all of folio 266 and down to the period after the words " does not appear," in the fourth line of folio 267.

——— ———,
Attorney for Plaintiff.

Proposed Bill of Exceptions.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
vs.
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Def'ts.

245 The above-named defendants, by their attorneys, Willis Hand, M. Barry, and A. R. Mead, hereby propose the following as the bill of exceptions in the above-entitled action, to be settled by the judge of said court and used on the appeal in said action:

The action was brought by the plaintiff to set aside the taxes levied in the town of Worcester, Price county, in the year 1883 on lands described in the complaint, the same being a portion of the lands granted to the State of Wisconsin by act of Congress of May 5th, 1864, to aid in the construction of certain railroads in the State of Wisconsin.

The various acts of Congress and of the Legislature of the State of Wisconsin referred to in the pleadings in the action and mentioned in the reporter's minutes, hereto annexed and marked Exhibit I, are considered as having been read in evidence *in extenso* and are made a part of the evidence in the case without being herein set out at length.

At the trial of the action before the court at the January term in said county, 1885, the following evidence was introduced and either received or rejected, as appears more fully by the rulings of said court in said reporter's minutes, viz:

Exhibit A is a patent from the State of Wisconsin of all the lands described in the plaintiff's complaint, together with a large
246 lot of other lands not lying in Price county. In the copy hereto annexed the descriptions are omitted, as they sufficiently appear in the complaint.

Exhibit B is a map or plat of the line of definite location of the Wisconsin Central Railroad through Price county or, more correctly speaking, through the territory now comprised in Price county.

The exhibit hereto annexed contains a particular description of such map, with all endorsements, certificates, and writings contained thereon.

Exhibit C.—This contains three maps, together with endorsements and writings thereon, showing sections five, six, and seven of the Wisconsin Central railroad north from Stevens' Point, as con-

structed, together with the date of completion and manner of construction.

Exhibit R is a plat showing the ten and twenty mile limits of the Wis. Cent. R. R. land grant through the territory now comprised in Price county and writings and endorsements thereon.

Exhibit D is a list of lands on which the plaintiff applied for patents, being list No. 15 of the Eau Claire U. S. land office.

Exhibit E is list No. 16 of the Eau Claire U. S. land office of lands on which the Wis. Cent. R. R. Co. applied for patents, and writings and endorsements thereon.

247 Exhibit G is list No. 18 from the Wausau U. S. land office of lands on which the Wis. Cent. R. R. Co. applied for patent, together with the writings and endorsements thereon.

The foregoing lists, viz., Exhibits D, E, and G, contain descriptions of all the lands described in plaintiff's complaint, except fifteen descriptions, to wit:

The northwest quarter of the southeast quarter and the southwest quarter of the southeast quarter of section No. 25, township 36, range one west; lot No. 2 of section 17, township 37, range 1 east; lots one & five of section 15, township 37, range 1 west; the northeast quarter of the southeast quarter and the south half of the southeast quarter of section 25, of township 37, range 2 west; all the northeast quarter, the south half of the southeast quarter of section 31, township 38, range one east, and lot No. 1 of section 25, township 38 of range 2 west. The lists contain lands not in Price county omitted from the copies, the omissions being indicated thus: x x x

Exhibit G ½.—Copies of two United States patents of various lands in Price county to the plaintiff. Lands outside of Price county contained in the patent are omitted from the copies and the omissions indicated thus: x x x

Exhibit H.—Deposition of E. B. Sanders.

Exhibit I.—Reporter's minutes.

248 These minutes contain all the oral evidence taken at the trial and a correct statement of the objections to evidence and exceptions to rulings of the court, except as follows:

At the close of the testimony of A. B. McDowell the court ruled: "The testimony of this witness may be stricken out." No exception to this ruling appears in the minutes.

An amendment is hereby made to said minutes by inserting after said ruling the following:

"Defendants except."

Exhibit J.—Deposition of E. H. Abbot.

All of the foregoing exhibits are severally and separately certified, as more fully appears by the certificates accompanying the same.

Exhibit K.—The court's findings of fact and conclusions of law.

Exhibit L.—Defendants' exceptions to court's findings of fact and conclusions of law.

Ex. A. (Patent.)

UNITED STATES OF AMERICA, *State of Wisconsin:*

Jeremiah M. Rusk, Governor, to all to whom these presents shall come, Greeting:

Whereas by an act — Congress approved May fifth, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," certain lands were granted to said State to aid in the construction of a railroad from Portage City,
249 Berlin, Doty's Island, or Fond du Lac in a northwestern direction to Bayfield, and thence to Superior, on Lake Superior, which said grant was duly accepted by said State; and

Whereas provision was made in said act that, whenever the company to which said grant might be transferred shall have completed twenty consecutive miles of said road in the manner therein provided, patents shall issue conveying to the company entitled thereto the lands granted as aforesaid on each side of said road as far as the same is completed and coterminous therewith; and

Whereas said grant was conferred by due legislation of said State upon corporations, which, by consolidation and otherwise, are now the Wisconsin Central Railroad Company; and

Whereas it appears that the said Wisconsin Central Railroad Company, a corporation created by and existing under the laws of Wisconsin, being thereunto duly authorized by said legislation, has constructed and completed, in the manner prescribed by the act of Congress aforesaid and in conformity to said laws of the State of Wisconsin in that behalf made, its railroad from Portage City to Stevens' Point, and also from Menasha to Doty's Island, to Stevens' Point, and thence to Ashland on Lake Superior; and

Whereas the construction and completion of said railroad
250 have been duly proven and certified to — as to entitle said company to patents for so much of said lands granted as aforesaid as are situate on either side of *said of* and are coterminus with said completed portion of said railroad; and

Whereas said Wisconsin Central Railroad Company, by the construction and completion of said railroad as aforesaid in conformity to the said act of Congress and the laws of Wisconsin, is entitled to receive under said legislation patents for the lands hereinafter described among others.

Now, therefore, know ye that the State of Wisconsin, in consideration of the premises and for the purpose of fulfilling said act of Congress and laws of Wisconsin in the premises, does hereby remise, release, quitclaim, and convey unto the said Wisconsin Central Railroad Company, its successors and assigns, the land hereinafter described, and all the right, title, and interest which the said State received or has acquired in and to the same under or by virtue of the act aforesaid and the acts and resolutions, if any, amendatory or explanatory thereof, to wit:

(Here follow all the descriptions of lands contained in the plaintiff's complaint in this action, with other lands.)

To have and to hold the said land above described to the said Wisconsin Central Railroad Company, its successors and assigns,
251 in fee simple forever, free from any claim thereto or any part or parcel thereof by the said State of Wisconsin under or by virtue of the grant aforesaid.

In testimony whereof, I, Jeremiah M. Rusk, Governor of the State of Wisconsin, have hereunto set my hand — caused the great seal of said State to be affixed.

Done at the capitol, in the city of Madison, Wisconsin, this twenty-fifth day of February, A. D. 1884.

J. M. RUSK.

By the Governor:
[SEAL.] ERNST TIMME,
Secretary of State.

STATE OF WISCONSIN, *Department of State,* } ss:

Received this twenty-fifth day of February, A. D. 1884, and recorded in Vol. five of Record of Lands, on pages 510 to 551, inclusive.

ERNST G. TIMME,
Secretary of State.

252 EXHIBIT B.

Ex. B. Definite Line.

As an introduction to Exhibit B we find the following endorsement: "Line of survey of the Portage, Winnebago and Superior railroad from Stevens' Point to Bayfield, made June, July, and August, 1869. Samuel W. Budlong, chief engineer."

Then follows a plat showing—

1st. Plats of townships 33 to 40, inclusive, north, ranges one and two east, of the 4th principal meridian.

2d. A line commencing at a point on the south line of township 33 on the range line between ranges one & two east, running thence due north on said range line to the north line of township forty.

The endorsements on said plat are as follows, to wit:

1st.

Office of the Portage, Winnebago and Superior Railroad Company, Menasha, Wisconsin, October 7th, 1869. It is hereby certified that in pursuance of the act of Congress approved May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," wherein a grant of lands is made by the third section to the said State for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Doty's Island, or Fond du Lac, as said State may determine, in a northwestern direc-

tion to Bayfield, and thence to Superior, on Lake Superior,
253 and the act or resolution of June 21, 1866, amendatory thereof, authorizing the construction of said railroad from said city of Portage, by the way of Ripon, in the county of Fond du Lac, and the city of Berlin, county of Green Lake, to Stevens' Point, and thence to Bayfield and to Superior, on Lake Superior;" and of the Winnebago and Lake Superior Railroad Company, approved April 6th, 1866, and one incorporating the Portage and Superior Railroad Company, approved April 9th, 1866, and one authorizing the two said companies to consolidate under the name of the Portage, Winnebago and Lake Superior Railroad Company; and of articles of consolidation by and between said companies, duly executed and filed in the office of the secretary of State on the 24th day of May, 1869, under and by virtue of which the said Portage, Winnebago and Superior Railroad Company was duly organized and became entitled to and invested with the title of the lands and all and singular the rights, privileges, and immunities granted or conferred or intended to be granted or conferred by section three of the aforementioned act of Congress and the acts amendatory thereof, and is authorized to construct said railroad from the said city of Portage by the way of the city of Ripon, and the said city of Berlin to Stevens' Point, and thence to Bayfield and to Superior, on Lake Superior; this map shows the location of that portion of the line or route of the said railroad from the said
254 Stevens' Point to Bayfield, being that part of the line or route of said railroad as definitely fixed in compliance with said acts of Congress and of the Legislature of the State of Wisconsin, and in pursuance of the resolution of the board of directors of said company passed on the 2d day of June, 1869, and the seventh day of September, 1869, and that the date of the field-work thereof are truly indicated along the line from station to station upon this map.

In testimony whereof the said railroad company has caused the same to be signed by its president and engineer, and has attached hereto its corporate seal, at Menasha, on the day and year first above written.

[SEAL.] GEO. REED, *President.*
S. W. BUDLONG,
Chief Engineer.

Attest: CURTISS REED, *Secretary.*

2nd.

STATE OF WISCONSIN, *County of Jefferson:*

Samuel W. Budlong, of Waterloo, in said county and State, being duly sworn, deposeth and says that he is the chief engineer of the Portage, Winnebago and Superior Railroad Company, and has been such engineer since the second day of June, A. D. 1869; that during the period above named W. H. Sheldon and D. P. Plummer were employed by this deponent, as chief engineers for said railroad com-

pany, as deputy or division engineers; that the said engineers,
255 as shown by their field-notes, verified under oath, did actually survey and mark upon the ground the line of route of the road of said company from Stevens' Point to Bayfield in the sections and at the times respectively designated by date, which are included between the flag-staffs upon and along the line of route of said railroad, as delineated on this map, showing the line of public survey in connection with the surveyed line of route, and that the acts of said deputy or division engineer in the premises were duly approved on behalf of said company by this deponent as said chief engineer of the said Portage, Winnebago and Superior Railroad Company.

S. W. BUDLONG,
Chief Engineer.

Sworn and subscribed this 12th day of October, A. D. 1869, before me—

[SEAL.]

S. M. COON,
Notary Public, Jefferson Co., Wis.

3.

STATE OF WISCONSIN,
OFFICE OF THE SECRETARY OF STATE,
MADISON, WIS., *Oct. 14th*, 1869.

This certifies that the Portage, Winnebago and Superior Railroad Company, a corporation duly organized under the laws of this State, by its president, Geo. Reed, has filed in this office its official maps of its line of road as definitely located along and upon the route
256 from the city of Portage by the way of the city of Ripon, in the county of Fond du Lac, and the city of Berlin, in the county of Green Lake, to Stevens' Point, and thence to Bayfield, and thence to Superior, on Lake Superior, in pursuance of the act of Congress of May 5th, 1864, granting lands to this State to aid in the construction of said road, and of the resolution of June 21st, 1866, amendatory thereof, and of the laws of this State conferring the said lands upon said company; that this map is a duplicate of the map of that portion of the line of said road as so definitely located by said company along & upon the same route from Stevens' Point to Bayfield.

In witness whereof I have hereunto set my hand and affixed the great seal of the State, at the capitol, in Madison, on the fourteenth day of October, A. D. 1869.

[SEAL.]

THOS. S. ALLEN,
Secretary of State.

4. *L'd G't R. R'ds.*

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *Nov. 9th*, 1869.

SIR: I transmit herewith three maps showing the location of the Portage, Winnebago and Superior Railroad from Portage City to Superior City.

You will issue the necessary instructions to the local offi-
257 cers to withdraw the granted lands.

Very respectfully, your ob't servant,

J. D. COX, *Secretary.*

Hon. Jos. S. Wilson, Commissioner of the General Land Office.

5. "F."

DEPARTMENT OF THE INTERIOR, "S. R. B."
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct. 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed are copies, first, of a letter from the Secretary of the Interior, dated Nov. 9th, 1869, transmitting to this office three maps showing the location of the Portage, Winnebago, and Superior railroad from Portage to Superior City, with the endorsements thereon; second, of so much of the map showing the location of the above-named railroad from Stevens' Point to Bayfield, Wisconsin, as shows such location through townships 34 to 40 N, inclusive, and of the certificates thereon; that I have compared each of said copies with the original thereof on file in my
258 office, and that each such copy is a true copy of such original and of the whole thereof, so far as relates to the townships above mentioned.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

EXHIBIT "C."

I. First. A plat of the Wisconsin Central railroad, having endorsed on it the following:

"Map of located line of Wisconsin Central R. R. from section 101, in sec. 13, T. 36 N., R. 1 E., to Fifield, in sec. 7, T. 39 N., R. 1 E., showing completed road over sixth sec. of twenty miles north of Stevens' Point."

Said plat also has the following endorsements on:

1st. STATE OF WISCONSIN, } ss:
County of Chippewa, }

Watson W. Rich, of Fifield, in said county and State, being duly sworn, deposeth and says "that he is the chief engineer of the Wisconsin Central railroad from the southeast quarter of the southeast quarter of section 13, town. 36 north, of range 1 east, of the 4th principal meridian, to lot 7 of section 19, town. 39 north, of range 1 east, of the 4th principal meridian, being the sixth section of twenty miles, as shown by the line of route in connection with the

line of the public surveys on this map; that it has been com-
259 pleted and equipped as required by law, and that this line of route shows the correct location of said railroad.

WATSON W. RICH, *Ch'f Eng'r.*

Sworn and subscribed this third day of November, 1876, before me—

[SEAL.] EDWARD W. MURRAY,
Notary Public, Chippewa Co.

"It is hereby certified that Watson W. Rich is the chief engineer for the Wisconsin Central railroad, and that the location of the road as represented on this map is correct and approved by the company, and also that the said portion of the said road has been completed and equipped in all respects as required by law."

GARDNER COLBY,
President Wisconsin Central R. R. Co.

Attest:

[SEAL.] EDWIN H. ABBOT,
Secretary of the Wis. Cen. R. R. Company.

2. STATE OF WISCONSIN:

EXECUTIVE OFFICE, MADISON, *O., Nov.* 15, 1876.

I, Harrison Ludington, Governor of the State of Wisconsin,
260 do hereby certify that this plat or map of the Wisconsin Central railroad has been duly filed in my office by the said Wisconsin Central Railroad Company, and shows that portion of the said railroad commencing in the southeast quarter of the southeast quarter of section thirteen (13), town. thirty-six (36) north, of range one (1) east, of the fourth principal meridian, and ending in lot seven (7) of section nineteen (19), town. thirty-nine (39) north, of range one (1) east, of the fourth principal meridian, which has been completed and equipped as required by the act of Congress approved March 3rd, 1875, and the act of the Legislative Assembly of the State of Wisconsin approved February 10th, 1875, entitled "An act relating to the Wisconsin Central railroad," and amendatory of sections three and eight of chapter three hundred and sixty-two of the Private and Local Laws of 1886, entitled An act to incorporate the Portage and Superior Railroad Company and to execute the trust created by an act of Congress entitled An act granting lands to aid in the construction of certain railroads in the State of Wisconsin, approved May 5th, 1864, approved April 9th, 1866, granting lands to the said Wisconsin Central Railroad Company.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Wisconsin.

261 Done at Madison this 15th day of November, 1876.

HARRISON LUDINGTON.

By the Governor:

S. CADWALLADER,
Ass't Sec. State.

3. STATE OF WISCONSIN, } ss:
Office of Sec'y of State, }

The certificate of the Governor given on this plat was recorded in this office on Executive Record, Vol. "A," page 225, Nov. 15, 1876.

S. CADWALLADER,
Ass't Secretary of State.

On the back of said plat is the following endorsement: "Map of construction from a point in sec 13, t'p 36, R. 1 E., to Fifield, in sec. 7, t'p 39 N., R. 1 E. Rec'd with letter of W. K. Mendenhall, dated Dec. 26, 1876."

Annexed to said plat are papers containing the following:

1st.

"WASHINGTON, D. C., *Dec.* 26, 1876.

"Hon. L. Chandler, Sec't'y of Interior.

"SIR: I have the honor to enclose herewith map, with the certificate of the Governor of Wisconsin, showing the comple-
262 tion of the 6th section of twenty miles of road north from Stevens' Point of the Wisconsin Central railroad.

"I respectfully ask an acknowledgment of receipt of same.

"Very respectfully, W. K. MENDENHALL,
"*Att'y Wis. Cent. R. R. Co.*"

Endorsement on back of this is as follows:

"Department of the Interior, December 26th, 1876."

2nd.

"Wisconsin Central R. R. M. 40776. Department of the Interior. Lands and railroads. Received 26th Dec., 1876, from W. K. Mendenhall, Washington, D. C. Subject: Transmits map, with certificate of Gov. of Wisconsin, showing 6th completed section of twenty miles of Wisconsin Central R. R. north of Stevens' Point. Action: T. B. S. 26 Dec., 1876. Ack'd and respectfully referred to the Commissioner of the General Land Office. A. Bell, chief clerk. No answer. File with Wis. Cent. R. R. papers. G. A. S. 2 Enc. 5, 20, 2. Registered 2-356. F. Dec. 27, 1876."

263 The last above, designated as "2nd," contains the endorsements on the jacket enclosing said plat of said railroad.

II. Exhibit "C" also contains a similar plat of section 5 of said railroad, the north end of which joins the south end of section six, already described, and endorsements thereon and papers accompanying the same, which are all particularly mentioned in the certificate of L. Harrison, hereinafter set forth, and numbered first, second, third, fourth, fifth, and sixth.

III. Exhibit "C" also contains a similar plat of section seven of said railroad, the south end of which joins on the north end of the sixth section, already described, together with endorsements and

certificates thereon and papers accompanying the same, which are all particularly mentioned in the certificate of L. Harrison, hereinafter set forth, and therein numbered tenth, eleventh, and twelfth.

The several papers composing Exhibit "C," as set forth and enumerated in the certificate of L. Harrison annexed thereto, are attached and fastened together as follows:

A piece of green silk braid about one-fourth of an inch wide is sti-ched through all of the papers, at the top ends thereof,
264 passing through the papers three times, and is then securely tied, and the ends of said braid are then run down across the 3d page of the certificate of said L. Harrison and between the 2d and 3d sheets thereof, and then said ends of the braid are laid flat near the foot of the page, and a large seal of red sealing wax is stamped across the braid onto the paper, fastening the braid securely thereto. On the red seal are the imprint of an eagle and the words "United States General Land Office."

The following is a copy of the certificate of L. Harrison annexed to said plats and papers and a part of Exhibit C, viz:

"F." "DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct. 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to fifteen, inclusive, are copies, first, of a letter, dated February 21st, 1874, from the Governor of Wisconsin to the Secretary of the Interior, stating that he had forwarded by express certificates showing the completion of the second, third, fourth, and fifth sections of the Wisconsin Cen-
265 tral railroad north from Stevens' Point and the first section south of Ashland, Wisconsin; second, of the endorsements upon jacket covering said letter; third, of a letter, dated Mar. 19th, 1874, from the Secretary of the Interior, transmitting to this office the letter and certificates above mentioned; fourth, of the endorsements upon the jacket covering said letter of March 19th, 1874; fifth, of so much of a map showing the line of route of the fifth section of twenty miles of the Wisconsin Central railroad as constructed as shows said line between the south line of township 34 N., range 1 E., and a point in section 13, township 36 N., range 1 E., with the certificates and endorsements thereon; sixth, of the certificates of the Governor of Wisconsin, dated Feb'y 20, 1874, attached to the foregoing map; seventh, of a letter, dated Dec. 26th, 1876, from W. K. Mendenhall to the Secretary of the Interior, transmitting a map showing the line of route of the sixth section of the Wisconsin Central railroad as constructed north of Stevens' Point, Wis., with the endorsements thereon; eighth, of the endorsements upon the jacket covering said letter; ninth, of the map showing the line of route of the sixth section of twenty miles of the Wisconsin Central railroad as constructed from a point in section thirteen, township 36 N., range 1 E.,
266 to a point in lot 7 of section 19, township 39 N., range 1 E., Wis., with the certificates and endorsements thereon; tenth, of a letter, dated May 20th, 1878, from Charles L. Colby, stating

that he has forwarded by express a properly certified map showing the completion of the seventh section, 26 miles, of the Wisconsin Central railroad north from Stevens' Point; eleventh, of the endorsements upon the jacket covering said letter; twelfth, of so much of the map showing the line of route of the seventh section of the Wisconsin Central railroad constructed north from Stevens' Point as shows said line from a point in lot 7 of section 19, township 39 N., range 1 E., to a point on the north line of section 3, township 40 N., range 1 W., Wis., with the certificates and endorsements thereon. I further certify that I have compared each of said copies with the original thereof on file in my office; that each such copy of said letters is a true copy of such original letter and of the whole thereof, and that each such copy of said maps is a true copy of such original map and of the whole thereof, so far as relates to townships 34 to 40 N., inclusive.

In testimony whereof I have hereunto subscribed my name
267 and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner General Land Office."

EXHIBIT "R."

A plat showing, 1st, the definite time of location of the Wisconsin Central R. R. through Price county from south to north on the line between ranges one and two east. Along this line are printed the words "Portage, Winnebago and Lake Superior R. R." On the west side of said line are printed "IE," "IVV," & "II." On the east side are the numbers "II, III, IV, V."

2nd. On the west side of said line, ten sections from it, runs the line marking the ten-mile limit of the land grant. Said line runs from a certain point on the south line of 34, 1 west, at the corner of sections 33 and 34, in said town., due north on *on* section line to the common corner of sections 9, 10, 15, & 16, town. 40, range 1 west, thence west on section line one mile; thence north on section line one mile; thence west on section line one mile; thence north on section line one mile, closing at the northeast corner of section six, in said town.

3rd. A line 20 sections west of the line of definite location
268 marking the 20-mile limit of said land grant. Said line commences at a point on the south line of town. thirty, range three west, at the common corner of sections 35 & 36, in said town., and runs thence due north on section lines to the common corner of sections 25, 26, 35, & 36, in town. 40, range three west; thence one mile west on section line; thence one mile north on section line; thence one mile west on section line; thence two miles north on section lines; thence one mile west on section line; thence one mile north on section line; thence one mile west on section line; thence once mile north on section line.

4th. A line marking the ten-mile limit of said grant on the east side of said road, commencing at a point on the south line of town.

thirty-four, range three east, at the common corner of sections thirty-four and thirty-five, thence due north on section lines to a point on the north line of town. forty, range three east, at the common corner of sections two & three, in said town.

5th. A line marking the twenty-mile limit of said grant on the east side of said road, commencing at a point on the south line of town. thirty-four, range five east, at the common corner of
269 sections 32 & 33, in said town., running thence due north on section lines to a point on the north line of town. 40, range 5 east, at the common corner of sections 4 & 5, in said town.

Annexed to said plat is the following certificate, to wit:

DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct. 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed is a copy of so much of the diagram showing the limits of the withdrawal of lands for the benefit of the Portage, Winnebago and Superior, now Wisconsin Central, Railroad Company, as relates to lands in townships 34 to 40 N., inclusive, Wisconsin; that I have compared said copy with the diagram on file in my office and used in the adjustment of the grant to the State of Wisconsin to aid in the construction of said company's railroad, and that such copy is a true copy of such diagram and of the whole thereof, so far as relates to lands in the township above mentioned.

In testimony whereof I have hereunto subscribed my name
270 and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *January 21st*, 1885.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 15 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon, on file in my office; that I have compared such copy with such original, and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

271 STATE OF WISCONSIN:

U. S. LAND OFFICE AT
EAU CLAIRE, *December 15th*, 1876.

The Wisconsin Central Railroad Company, under and by virtue — the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress and the location of the line of route of the road of said company, being for the 6th section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range 1 east, the selections being particularly described as follows:

272 *North of Base Line and East of 4th Principal Meridian.*

Railroad list.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
1	All	1	36	1	767	20	
2	N ½	3	"	"	401	44	
3	N ½ of s w ¼	3	"	"	80	----	
4	N ½ of s e ¼	3	"	"	80	----	
5	N e ¼	5	"	"	179	20	
6	W ½ of	5	"	"	333	68	
7	W ½ of s e ¼	5	"	"	80	----	
8	E ½ of n e ¼	11	"	"	80	----	
9	S w ¼ of n e ¼	11	"	"	40	----	
10	E ½ of s w ¼	11	"	"	80	----	
11	S w ¼ of s w ¼	11	"	"	40	----	
12	S e ¼	11	"	"	160	----	
13	N e ¼	13	"	"	160	----	
14	W ½	13	"	"	320	----	
15	N ½ of s e ¼	13	"	"	80	----	
16	S e ¼ of n e ¼	15	"	"	40	----	
17	E ½ of s e ¼	15	"	"	80	----	
18	S w ¼ of s e ¼	15	"	"	40	----	
19	S w ¼ of n e ¼	1	37	"	40	----	

North of Base Line and East of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
20	W ½ of s w ¼	1	"	"	80	----	
21	Lots 4, 6, & 7	7	"	"	117	60	
22	N e ¼ of s e ¼	7	"	"	40	----	
23	E ½ of n e ¼	19	"	"	80	----	
24	S w ¼ of n e ¼	19	"	"	40	----	
25	Lots # 11, 12, 17, 18, 19, & 20.	19	"	"	240	----	
26	S e ¼	19	"	"	160	----	
27	N e ¼ of s w ¼	11	"	"	40	----	
28	S e ¼	21	37	1	160	----	
29	S w ¼ of n e ¼	23	"	"	40	----	
30	E ½ of n w ¼	23	"	"	80	----	
31	Lots 1, 2, & 4	25	"	"	73	20	
32	S w ¼ of s e ¼	25	"	"	40	----	
33	N e ¼	27	"	"	160	----	
34	N ½ of n w ¼	27	"	"	80	----	
35	S e ¼ of s w ¼	27	"	"	40	----	
36	E ½ of s e ¼	27	"	"	80	----	
37	S w ¼ of s e ¼	27	"	"	40	----	
					4,672	32	
	273				4,672	32	
38	S ½	29	37	1	320	----	
39	S w ¼ of n e ¼	31	----	----	40	----	
40	Lots 2, 3, 4, 7, 9, 10, 11, 12	31	----	----	722	12	
41	13, 14, 15, 16, 17, 18, 19, & 20						
42	S e ¼	31	----	----	160	----	
43	All	33	----	----	640	----	
44	All	35	----	----	640	----	
45	W ½ of n e ¼	1	38	"	79	71	
46	W ½	1	----	----	319	54	
47	N e ¼ of n e ¼	3	----	----	41	11	
48	W ½ of n e ¼	3	----	----	80	33	
49	E ½ of n w ¼	3	----	----	80	55	
50	N w ¼ of n w ¼	3	----	----	40	77	
51	N e ¼ of s w ¼	3	----	----	40	----	
52	N w ¼ of s e ¼	5	----	----	40	----	
53	Lots # 5 & 6	7	38	1	100	52	
54	E ½ of n w ¼	9	"	"	80	----	

North of Base Line and East of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
55	N e ¼ of s w ¼	9	38	1	40	----	
56	N w ¼ of s w ¼	9	"	"	40	----	
57	N w ¼ of n e ¼	13	"	"	40	----	
58	S e ¼ of n e ¼	15	"	"	40	----	
59	N e ¼ of s e ¼	15	"	"	40	----	
60	E ½ of n e ¼	21	"	"	80	----	
61	N e ¼ of n e ¼	27	"	"	40	----	
62	N e ¼ of n w ¼	29	"	"	40	----	
63	Lot # 19	31	"	"	20	50	
64	E ½ of s e ¼	33	"	"	80	----	
65	N ½ of s e ¼	35	"	"	80	----	
66	S e ¼	21	39	"	160	----	
67	N e ¼ of s w ¼	23	"	"	40	----	
68	W ½ of s e ¼	23	"	"	80	----	
69	S e ¼ of s e ¼	23	"	"	40	----	
70	All	25	"	"	640	----	
71	S ½ of s w ¼	27	"	"	80	----	
72	N ½ of n e ¼	31	"	"	80	----	
73	Lots # 1, 4, 6, 9, 10, & 20.	31	"	"	251	49	
74	N e ¼ of s e ¼	31	"	"	40	----	
					10,048	96	
					10,098	96	
75	274 N e ¼ of n w ¼	33	39	1	40		
76	W ½ of n w ¼	33	"	"	80		
77	N e ¼	35	"	"	160		
78	S e ¼ of n w ¼	35	"	"	40		
79	E ½ of s e ¼	35	"	"	80		
80	N w ¼ of s e ¼	35	"	"	40		
					10,488	96	

North of Base Line & West of 4 Principal Meridian.

81	E ½	1	36	1 w	319	61	
82	E ½ of n w ¼	1	"	----	79	43	
83	S w ¼ of n w ¼	1	"	----	40		
84	S w ¼	1	"	----	160		
85	All	3	"	----	612	22	
86	N e ¼ of n e ¼	11	"	----	40		
87	W ½ of s w ¼	11	"	----	80		

North of Base Line & West of 4 Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
88	S e ¼ of s w ¼	11	36		40		
89	S e ¼ of s e ¼	11	"		40		
90	W ½ of n e ¼	15	"		80		
91	W ½	15	"		320		
92	N w ¼ of s e ¼	15	"		40		
93	N e ¼	1	37	"	155	10	
94	N w ¼	3	"	"	145	90	
95	S e ¼ of s e ¼	3	"	"	40		
96	S w ¼	11	"	"	160		
97	S w ¼ of s e ¼	13	"	"	40		
98	N w ¼ of s w ¼	23	"	"	40		
99	S ½ of s e ¼	23	"	"	80		
100	N ½ of n e ¼	25	"	"	80		
101	N w ¼	25	"	"	160		
					13,241	22	

North of Base Line & West of 4th Principal Meridian.

Railroad list.

					13,241	22	
102	N w ¼ of s w ¼	25	37	1	40		
103	E ½	27	"	"	320		
104	E ½ of n w ¼	27	"	"	80		
105	S w ¼ of n w ¼	27	"	"	40		
106	S w ¼	27	"	"	160		
107	N ½ of n w ¼	35	"	"	80		
108	E ½ of s e ¼	1	38	"	80		
109	S w ¼ of s e ¼	1	"	"	40		
110	N w ¼ of n w ¼	11	"	"	40		
111	275 E ½ of n e ¼	13	38	1 w	80		
112	S e ¼	13	"	"	160		
113	N w ¼	15	"	"	160		
114	N e ¼	25	"	"	160		
115	N w ¼ of s e ¼	35	"	"	40		
116	S e ¼ of s e ¼	35	"	"	40		
117	Lots # 1, 2, & 3	35	"	"	109	60	
118	S w ¼ of n e ¼	35	"	"	40		
					14,910	82	Acres.

93 qr. sections, @ $2.00, $186.00.

276 STATE OF WISCONSIN, *County of Portage:*

I, Almansa Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company.

That the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage, by way of Stevens' Point, to Bayfield, and thence to Superior, on Lake Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875.

That the said lands are vacant, unappropriated, and are not interdicted, mineral, or reserved lands, and are of the character contemplated by the grant, being within the limits of the ten (10) miles on each side of the line of route for a continuous distance of twenty miles, being for the 6th section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen
277 (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

Wisconsin Central Railroad Co., No. 28 State St.

BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *Pres't.*

U. S. LAND OFFICE,
EAU CLAIRE, WISCONSIN, *December* 15, 1876.

We do hereby certify that we have carefully compared the
278 foregoing with copy with original appointment of Almanson Eaton as land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

U. S. LAND OFFICE,
EAU CLAIRE, WIS., *Dec.* 15, 1876.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office and we find the same to be correct.

And we further certify that the filing of said list is allowed and approved, and the whole of said lands are *are* surveyed public lands of the United States and within the limits of ten (10) miles on each side, and the same are not, nor any part thereof, returned and denominated as mineral land or lands nor claimed as swamp lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

279 We further certify that the foregoing list shows an assessment of fees, payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United States land offices, and that the said company have paid to the undersigned, the receiver, the full sum of one hundred and eighty-six dollars ($186.00) in full payment and discharge of said fees.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

Endorsements on back: List #15, M. 39,298. Div. F #2. Application of Almanson Eaton for land in 10-mile limits of grant to Wis. C't'l R. R. Co., 6th section.

280 Ex. E.

"F." DEPARTMENT OF THE INTERIOR. F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1885. W. J. D.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 16 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

281 STATE OF WISCONSIN:

U. S. LAND OFFICE AT
EAU CLAIRE, *December 15th*, 1876.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the road of said company, being for the 6th section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east, the selections being particularly described as follows:

North of Base Line and West of 4th Principal Meridian.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
1	282 E ½	5	36	1	316	19	✓
2	E ½ of n w ¼	5	"	"	77	87	✓
3	N w ¼ of n w ¼	7	"	"	49	52	✓
4	N e ¼ " n e ¼	9	"	"	40	--	Erased from patent.
5	N e ¼ " n e ¼	17	"	"	40	--	✓
6	W ½ " n e ¼	17	"	"	80	--	✓
7	N w ¼	17	"	"	160	--	✓
8	N e ¼ of s w ¼	17	"	"	40	--	✓
9	W ½ " s w ¼	17	"	"	80	--	✓
10	E ½	19	37	"	320	--	✓ Ex. n w n e.
11	S w ¼	19	"	"	173	45	✓
12	E ½	21	"	"	320	--	✓
13	S e ¼ of n w ¼	21	"	"	40	--	✓
14	S w ¼	21	"	"	160	--	✓
15	E ½	29	"	"	320	--	✓
16	N w ¼	29	"	"	160	--	✓
17	E ½	31	"	"	320	--	✓
18	N w ¼	31	"	"	170	15	✓
19	S w ¼	33	"	"	160	--	✓
20	N e ¼	7	38	"	160	--	✓

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
21	E ½ of s e ¼	7	"	"	80	--	✓
22	N w ¼ of n e ¼	9	"	"	40	--	✓
23	Lot # 8	9	"	"	45	90	✓
24	Lots # 1, 2, & 3 (or n e ¼).	17	"	"	138	41	✓
25	W ½	17	"	"	298	80	✓
26	Lot # 7	19	"	"	32	45	✓
27	S e ¼ of s w ¼	31	"	"	40	--	✓
28	S w ¼	19	39	"	180	73	
29	S e ¼	19	"	"	160	--	
30	S w of ¼ s w ¼	21	"	"	40	--	
31	N e ¼	29	39	1	160	--	
32	E ½ of n w ¼	29	--	----	80	--	
33	N w ¼ of n w ¼	29	--	----	40	--	
34	E ½ " s w ¼	29	--	----	80	--	
35	S w ¼ " s w ¼	29	--	----	40	--	
36	W ½ " s e ¼	29	--	----	80	--	
37	E ½ " s w ¼	31	--	----	80	--	
38	W ½ " n e ¼	33	--	----	80	--	
39	S e ¼ " n e ¼	33	--	----	40	--	
					4,923	97	
	283				4,923	97	
40	N w ¼	1	36	2	145	85	Ex. n ½.
41	E ½ of s w ¼	5	"	"	80	--	✓
42	N w ¼ of s w ¼	5	"	"	40	--	✓
43	N ½	7	"	"	322	97	✓
44	N e ¼ of n e ¼	9	"	"	40	--	✓
45	S w ¼ " n e ¼	9	"	"	40	--	✓
46	S ½	9	"	"	320	--	✓
47	E ½	11	"	"	320	--	✓
48	S e ¼ of n w ¼	11	"	"	40	--	✓
49	S w ¼	11	"	"	160	--	✓
50	S ½	13	"	"	320	--	Ex. n w s w.
51	All	15	"	"	640	--	✓
52	N e ¼	17	"	"	160	--	✓
53	N e ¼ of s e ¼	17	"	"	40	--	✓
54	W ½ " s e ¼	17	"	"	80	--	✓
55	Lot # 6 (n ½ of s w ¼)	3	37	"	62	82	✓
56	W ½ of n e ¼	5	37	"	75	70	✓
57	S e ¼ " n e ¼	5	"	"	40	--	Scratched.

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
58	N w ¼	5	37	2	152	32	Ex. n ½.
59	N ½	7	"	"	294	40	✓
60	N e ¼ of s w ¼	7	"	"	40	--	✓
61	N ½ " s e ¼	7	"	"	80	--	✓
62	S w ¼ " n w ¼	17	"	"	40	--	Sc'd.
63	Lots # 3 & 7	17	"	"	99	55	✓
64	Lots " 1, 2, & 5	19	"	"	99	99	✓
65	S e ¼ of n e ¼	19	"	"	40	--	✓
66	N e ¼ " s e ¼	19	"	"	40	--	Sc'd.
67	W ½ " s e ¼	19	"	"	80	--	✓
68	E ½ " n w ¼	21	"	"	80	--	Ex. n e.
69	S w ¼ " n w ¼	21	"	"	40	--	✓
70	E ½	23	"	"	320	--	✓
71	N w ¼ of n w ¼	25	"	"	40	--	✓
72	S e ¼ " n w ¼	25	"	"	40	--	Sc'd.
73	E ½ " s e ¼	29	"	"	80	--	✓
74	S w ¼ " s e ¼	29	"	"	40	--	✓
75	N w ¼ " s w ¼	33	"	"	40	--	✓
76	S e ¼ " s e ¼	33	"	"	40	--	✓
77	S ½ " n e ¼	35	"	"	80	--	✓
78	S w ¼	35	"	"	160	--	Ex. s e.
					9,777	57	
	284				9,777	57	
79	N ½ of s e ¼	35	37	2	80	--	✓
80	S ½ of n e ¼	1	38	"	80	--	✓
81	S ½ " n w ¼	1	"	"	80	--	Ex. s e.
82	S ½	1	"	"	320	--	✓
83	S ½ of n e ¼	5	"	"	80	--	✓
84	Lots # 1, 2, 3, 4, & 5 (or w ½).	5	"	"	233	64	✓
85	N ½ of s e ¼	5	38	2	80	--	✓
86	All	7	"	"	632	88	✓
87	E ½ of n w ¼	9	"	"	80	--	✓
88	S w ¼ of n w ¼	9	"	"	40	--	✓
89	S ½ " s w ¼	9	"	"	80	--	Ex. s e.
90	E ½	11	"	"	320	--	✓
91	E ½ of n w ¼	11	"	"	80	--	Ex. n e.
92	S w ¼ " n w ¼	11	"	"	40	--	✓
93	S w ¼	11	"	"	160	--	✓
94	N ½ of n e ¼	13	"	"	80	--	✓

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Rearks.
95	E ½ " n w ¼	13	38	2	80	--	✓
96	N w ¼ of n w ¼	13	"	"	40	--	✓
97	All	15	"	"	640	--	Ex. s w n w.
98	N e ¼	17	"	"	160	--	✓
99	W ½	17	"	"	320	--	✓
100	N e ¼ of s e ¼	17	"	"	40	--	✓
101	W ½ " s e ¼	17	"	"	80	--	✓
102	All	19	"	"	586	89	Ex. n ½ of s w.
103	S ½ of n e ¼	21	"	"	80	--	✓
104	S ½ " n w ¼	21	"	"	80	--	✓
105	S ½	21	"	"	320	--	Ex. n w s w.
106	N w ¼ of s e ¼	23	"	"	40	--	✓
107	S e ¼ " s e ¼	23	"	"	40	--	✓
108	W ½ "	27	"	"	320	--	✓
109	S e ¼ "	27	"	"	155	--	✓
110	N e ¼	29	"	"	160	--	Ex. n w.
111	W ½	29	"	"	320	--	✓
112	N e ¼ of s e ¼	29	"	"	40	--	✓
113	W ½ " s e ¼	29	"	"	80	--	✓
114	All	31	"	"	624	84	✓
115	S ½ of n e ¼	33	"	"	80	--	✓
116	E ½ " s w ¼	33	"	"	80	--	✓
117	Lots # 3, 4, & 5 (or n w ¼).	35	"	"	159	50	✓
					16,770	32	
	285				16,770	52	
118	N w ¼ of s w ¼.	33	38	2	40	--	✓
119	N w ¼	25	39	2	160	--	
120	N ½ of s w ¼	25	"	"	80	--	
121	N ½ " s e ¼	25	"	"	80	--	
122	S w ¼	27	"	"	160	--	
123	N w ¼ of s e ¼	27	"	"	40	--	
124	S w ¼	29	"	"	160	--	
125	N e ¼ of s e ¼	29	"	"	40	--	
126	W ½ " s e ¼	29	"	"	80	--	
127	All	31	"	"	404	31	
128	N ½	33	"	"	320	--	
129	N e ¼ of s w ¼	33	"	"	40	--	
130	N ½ " s e ¼	33	"	"	80	--	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
131	N ½	35	39	2	320	--	
132	N w ¼ of s w ¼	35	"	"	40	--	
	* * *	*	*	*	*	*	
155	S ½ of n w ¼	9	36	2	80	--	
					21,669	47	135 qr. sections @ $2.00 = $270 fees.

286 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage, by the way of Stevens' Point, to Bayfield, and thence to Superor, on Lake Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875.

That the said lands are vacant, unappropriated, and are not interdicted, mineral, or reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of twenty miles, being for the sixth section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

287 Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

Wisconsin Central Railroad Co., No. 28 State St.

BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *President.*

U. S. LAND OFFICE,
EAU CLAIRE, WISCONSIN, *December* 15, 1876.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Almanson Eaton as
288 land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

U. S. LAND OFFICE, EAU CLAIRE, WIS., *Dec.* 15, 1876.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office and we find the same to be correct; and we further certify that the filing of said list is allowed and approved and the whole of said lands are surveyed public lands of the United States within the limits of twenty miles on each side, and that the same are not nor any part thereof returned and denominated as mineral land or lands nor claimed as swamp lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

289 We further certify that the foregoing list shows an assessment of fees, payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United States land offices, and that the said company have paid to the undersigned, the receiver, the full sum of two hundred and seventy dollars ($270) in full payment and discharge of said fees.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

Endorsements on back: List #16, M. 39,298. Div. #3. Application of Almanson Eaton for indemnity lands in 6th section of grant to Wis. C't'l R. R. Co.

290 Ex. G. Ex. "H."

"F." DEPARTMENT OF THE INTERIOR, F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1875. W. J. D.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 18 of the Wisconsin Central Railroad Company

for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

STATE OF WISCONSIN:

U. S. LAND OFFICE AT WAUSAU, *December* 9, 1876.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin,"
291 approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the road of said company, being for the sixth section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east, the selections being particularly described as follows:

292 *Railroad List.*

No.	Parts of sections.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
1	E ½	1	36	3 e	380	32	✓
2	E ½ of s w ¼	1	"	"	80	--	✓
3	W ½ of n e ¼	11	"	"	80	--	✓
4	W ½	11	"	"	320	--	✓
5	N w ¼ of s e ¼	11	"	"	40	--	✓
6	N e ¼ of n w ¼	1	37	3 e	38	70	✓
7	S w ¼ of n w ¼	1	"	"	40	--	✓
8	S e ¼ of s e ¼	1	"	"	40	--	✓
9	N ½ of n w ¼	11	"	"	80	--	✓
10	S e ¼ of s e ¼	11	"	"	40	--	✓
11	S e ¼ of s e ¼	13	"	"	40	--	✓
12	E ½ of n e ¼	23	"	"	80	--	✓

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	H'd'ths.	Remarks.
13	N w ¼ of n e ¼	23	37	3 e	40	--	✓
14	N e ¼ of n e ¼	35	"	"	40	--	✓
15	W ½	11	38	"	320	--	✓
16	W ½ of s e ¼	11	"	"	80	--	✓
17	S e ¼ of s e ¼	11	"	"	40	--	✓
18	All	11	"	"	640	--	Mistake.
19	E ½	13	"	"	320	--	✓
20	E ½ of n w ¼	23	"	"	80	--	✓
21	S w ¼	23	"	"	160	--	✓
22	W ½ of s e ¼	23	"	"	80	--	✓
23	S ½ of s w ¼	22	39	3 e	80	--	
24	S ½ of s e ¼	25	"	"	80	--	
25	All	25	"	"	640	--	
26	S e ¼ of s e ¼	35	"	"	40	--	
27	S e ¼ of n e ¼	1	36	4 e	40	--	
	* * *	*	*	*	*	--	
	* * *	*	*	*	*	--	
	* * *	*	*	*	*	--	
	* * *	*	*	*	*	--	

293 *Railroad List.*

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	

Railroad List.

No.	Parts of section.	Sec.	Town.	Range.	Acres.	Remarks.
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	

Railroad List.

No.	Parts of section.	Sec.	T.	R.	Acres.	Remarks.
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	

Railroad List.

No.	Parts of section.	Sec.	T.	R.	Acres.	Remarks.
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	
	* * *	*	*	*	*	

294 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Missouri Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage, by the way of Stevens' Point, to Bayfield, and thence to Superior, on Lake Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875; that the said lands are vacant, unappro-

priated, and are not interdicted, mineral, or reserved lands, and are of the character contemplated by the grant, being within the limits of twenty miles on each side of the line of route for a continuous distance of twenty miles, being for the sixth section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

295 Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

Wisconsin Central Railroad Co., No. 28 State street.

BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *Pres't.*

U. S. LAND OFFICE,
WAUSAU, WISCONSIN, *December 9th*, 1876.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Almanson Eaton as
296 land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

S. H. ALBAN, *Register.*
D. L. QUAW, *Receiver.*

U. S. LAND OFFICE,
WAUSAU, WIS., *Dec.* 9, 1876.

We hereby certify that we have carefully & critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and the whole of said lands are surveyed public lands of the United States and within the limits of twenty miles on each side, and that the same are not, nor any part thereof, returned and denominated as mineral land or lands nor claimed as swamp lands, nor is there any

homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office. We further certify that the foregoing list shows an assessment of fees payable to us,
297 allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United States land offices, and that the said company have paid to the undersigned, the receiver, the full sum of two hundred & eighty-five & $\frac{23}{100}$ — ($285.23) in full payment and discharge of said fees.

S. H. ALBAN, *Register.*
D. L. QUAW, *Receiver.*

Endorsements & filings on the back: $18. M. 38,463. Div. F # 2. Land office, Wausau, Wis., Dec. 9th, 1876. 6th section Wis. Cen. R. R. selection, indemnity.

Ex. G ½.

"F." DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *October 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to twenty-three, inclusive, are copies of patents numbered eight and nine, issued to the Wisconsin Central Railroad Company January 9th and August 10th, 1878, so far as they relate to lands in townships 34 to 40 N., incusive; that I have compared each of said copies with the orignal
298 thereof of record *of record* in my office, and that each such copy is a true copy of such original and of the whole thereof, so far as relates to lands in the townships above mentioned.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

The United States of America to all to whom these presents shall come, Greeting:

Whereas by the act of Congress approved May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and a resolution explanatory of and in addition to said act, approved June 21, 1866, and an act authorizing change of line, approved March 3, 1875, authority is given to the Wisconsin Central Railroad Company, a corporation existing under the laws of the State of Wisconsin, to construct a railroad under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the State of Wisconsin, for the
299 use and benefit of said railroad company, "every alternate section of public land designated by odd numbers for ten sections in width on each side of said railroad;"

And whereas it is further enacted that in case it shall appear that the United States have, when the line of route of said road is definitely fixed, sold, reserved, or otherwise disposed of any sections or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, then so much land is set apart to be selected for the purposes aforesaid nearest to the tier of sections above specified as shall be equal to the lands which the United States have sold or otherwise disposed of or to which the right of pre-emption or homestead has attached: Provided, That the land to be located shall in no case be further than twenty miles from the line of said road;

And whereas it is further enacted by the seventh section of said act that when the Governor of the State of Wisconsin shall certify that any section of twenty consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, patents shall issue to said company for the lands thereby granted;

300 And whereas it is shown by certificates of the Governor of the State of Wisconsin, bearing dates November 20th, 1872; August 16th, 1873; February 13th and 20th, 1874; December 29th, 1875; October 30, November 15th, and December 27th, 1876, and maps therewith, now on file in the General Land Office, that the said Wisconsin Central Railroad Company has completed and equipped, in the manner prescribed by said acts, its line of road from Portage City to Ashland, in section fourteen, township forty-five north, range three west, fourth principal meridian;

And whereas certain tracts have been selected by Almanson Eaton, the agent for the Wisconsin Central Railroad Company, as shown by his original lists of selections, bearing dates December 7th and 11th, 1876, and certified under dates December 15th and 19th, 1876, by the registers and receivers of Eau Claire, Wausau, and Bayfield, Wisconsin, the said tracts being described as follows:

North of base line and east of fourth principal meridian:

Township Thirty-six, Range One.

All of section one, containing seven hundred and sixty-seven acres and twenty-hundredths of an acre; the north half of the southwest quarter, the north half of the southeast quarter, and the north half of section three, containing five hundred and sixty-

301 one acres and forty-four hundredths of an acre; the west half of the southeast quarter, the northeast quarter, and the west half of section five, containing five hundred and ninety-two acres and eighty-eight hundredths of an acre; the east half of the northeast quarter, the southwest quarter of the northeast quarter, the east half of the southwest quarter, the southwest quarter of the southwest quarter, and the southeast quarter of section eleven, containing four hundred acres; the north half of the southeast quarter, the northeast quarter, and the west half of section thirteen, containing five hundred and sixty acres; the southeast quar-

ter of the northeast quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section fifteen, containing one hundred and sixty acres.

Township Thirty-seven, Range One.

The southwest quarter of the northeast quarter and the west half of the southwest quarter of section one, containing one hundred and twenty acres; the northeast quarter of the southeast quarter and lots six and seven of section seven, containing one hundred and twenty acres; the east half of the northeast quarter, the southwest quarter of the northeast quarter, lots eleven, twelve, seventeen, eighteen, nineteen, and twenty, and the southeast quarter of section nine-
302 teen, containing five hundred and twenty acres; the northeast quarter of the southwest quarter and the southeast quarter of section twenty-one, containing two hundred acres; the southwest quarter of the northeast quarter and the south half of the northwest quarter of section twenty-three, containing one hundred and twenty acres; lots one, two, and four and the southwest quarter of the southeast quarter of section twenty-five, containing one hundred and thirteen acres and twenty-hundredths of an acre; the northeast quarter, the north half of the northwest quarter, the southeast quarter of the southwest quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section twenty-seven, containing four hundred acres; the south half of section twenty-nine, containing three hundred and twenty acres; the southwest quarter of the northeast quarter, lots two, three, four, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, and twenty, and the southeast quarter of section thirty-one, containing nine hundred and twenty-two acres and twelve-hundredths of an acre; all of section thirty-three, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

Township Thirty-eight, Range One.

303 The west half of the northeast quarter and the west half of section one, containing three hundred and ninety-nine acres and twenty-five hundredths of an acre; the northeast quarter of the northeast quarter, the west half of the northeast quarter, the east half of the northwest quarter, the northwest quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section three, containing two hundred and eighty-two acres and seventy-six hundredths of an acre; the northwest quarter of the southeast quarter of section five, containing forty acres; lots five and six, in section seven, containing one hundred acres and fifty-two hundredths of an acre; the east half of the northwest quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section nine, containing one hundred and sixty acres; the northwest quarter of the northeast quarter of section thirteen, containing forty acres; the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter

of section fifteen, containing eighty acres; the east half of the northeast quarter of section twenty-one, containing eighty acres; the northeast quarter of the northeast quarter of section twenty-seven, containing forty acres; the northeast quarter of the northwest quarter of section twenty-nine, containing forty acres; lot nineteen, of section thirty-one, containing twenty acres and
304 fifty-hundredths of an acre; the east half of the southeast quarter of section thirty-three, containing eighty acres, and the north half of the southeast quarter of section thirty-five, containing eighty acres.

Township Thirty-nine, Range One.

The southeast quarter of section twenty-one, containing one hundred and sixty acres; the northeast quarter of the southwest quarter & the west half of the southeast quarter and the southeast quarter of the southeast quarter of section twenty-three, containing one hundred and sixty acres; all of section twenty-five, containing six hundred and forty acres; the south half of the southwest quarter of section twenty-seven, containing eighty acres; the north half of the northeast quarter of section thirty-one, containing eighty acres; lots one, four, six, nine, ten, and twenty and the northeast quarter of the southeast quarter of section thirty-one, containing two hundred and ninety-one acres and forty-nine hundredths of an acre; the northeast quarter of the northwest quarter and the west half of the northwest quarter of section thirty-three, containing one hundred and twenty acres; the southeast quarter of the northwest quarter, the east half of the southeast quarter, the northwest quarter of the southeast quarter, and the northeast quarter of section thirty-
305 five, containing three hundred and twenty acres.

North of base line and west of fourth principal meridian:

Township Thirty-six, Range One.

The east half of the northwest quarter, the southwest quarter of the northwest quarter, the southwest quarter, and the east half of section one, containing five hundred and ninety-nine acres and four-hundredths of an acre; all of section three, containing six hundred and twelve acres and twenty-two hundredths of an acre; the northeast quarter of the northeast quarter, the west half of the southwest quarter, the southeast quarter of the southwest quarter, and the southeast quarter of the southeast quarter of section eleven, containing two hundred acres; the west half of the northeast quarter, the northwest quarter of the southeast quarter, and the west half of section fifteen, containing four hundred and forty acres.

Township Thirty-seven, Range One.

The northeast quarter of section one, containing one hundred and fifty-five acres and ten-hundredths of an acre; the northwest quarter and the southeast quarter of the southeast quarter of section three,

containing one hundred and eighty-five acres and ninety-
306 hundredths of an acre; the southwest quarter of section eleven, containing one hundred and sixty acres; the southwest quarter of the southeast quarter of section thirteen, containing forty acres; the northwest quarter of the southwest quarter and the south half of the southeast quarter of section twenty-three, containing one hundred and twenty acres; the north half of the northeast quarter, the northwest quarter, and the northwest quarter of the southwest quarter of section twenty-five, containing two hundred and eighty acres; the east half of the northwest quarter, the southwest quarter of the northwest quarter, the southwest quarter, and the east half of section twenty-seven, containing six hundred acres; the north half of the northwest quarter of section thirty-five, containing eighty acres.

Township Thirty-eight, Range One.

The east half of the southeast quarter and the southwest quarter of the southeast quarter of section one, containing one hundred and twenty acres; the northwest quarter of the northwest quarter of section eleven, containing forty acres; the east half of the northeast quarter and the southeast quarter of section thirteen, containing two hundred and forty acres; the northwest quarter of section fifteen, containing one hundred and sixty acres; the northeast quar-
307 ter of section twenty-five, containing one hundred and sixty acres; the northwest quarter of the southeast quarter and the southeast quarter of the southeast quarter of section thirty-five, containing eighty acres.

North of base line and east of fourth principal meridian:

Township Thirty-six, Range Two.

All of section one, containing seven hundred and eighty-five acres and seventy-two hundredths of an acre; all of section five, containing seven hundred and eighty-four acres and seventy-two hundredths of an acre; the northwest quarter of the northeast quarter, the northwest quarter of the southwest quarter, and the northwest quarter of section three, containing three hundred and forty-nine acres and seventy-seven hundredths of an acre; all of section seven, containing six hundred and sixty-three acres and fifty-two hundredths of an acre; the south half of the northeast quarter, the southeast quarter of the northwest quarter, and the south half of section nine, containing four hundred and forty acres; the north half of the northeast quarter and the northwest quarter of section eleven, containing two hundred and forty acres; the north half of the northeast quarter, the northeast quarter of the northwest quarter, the west half of the northwest quarter, and the northwest quarter of the southwest quarter of section seventeen, containing two hundred and forty acres.

308 *Township Thirty-seven, Range Two.*

All of section one, containing six hundred and forty acres and twelve-hundredths of an acre; all of section three, containing six hundred and forty acres and thirty-two hundredths of an acre; the east half— the northwest quarter and the east half of the southwest quarter of section five, containing five hundred and sixty-one acres and ninety-hundredths of an acre; the southeast quarter of the southwest quarter and the east half of section nine, containing three hundred and sixty acres; the northeast quarter and the west half of section eleven, containing four hundred and eighty acres; the east half of the northeast quarter, the northwest quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section thirteen, containing one hundred and sixty acres; the north half of section fifteen, containing three hundred and twenty acres; the southeast quarter of the southeast quarter of section seventeen, containing forty acres; the west half of the northeast quarter and the west half of the southeast quarter of section nineteen, containing one hundred and sixty acres; the east half of section twenty-three, containing three hundred and twenty acres; all of section twenty-five, containing six hundred and forty acres; the northeast quarter and the northwest quarter of the southeast quarter of
309 section twenty-seven, containing two hundred acres; the southeast quarter of section twenty-nine, containing one hundred and sixty acres; all of section thirty-one, containing six hundred and sixty acres and thirty-eight hundredths of an acre: all of section thirty-three, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

Township Thirty-eight, Range Two.

The south half of the southeast quarter of section three, containing eighty acres; the northeast quarter and the west half and the north half of the southeast quarter of section seven, containing five hundred and seventy-three acres and thirty-six hundredths of an acre; the southwest quarter of the southeast quarter of section eleven, containing forty acres; the east half of the northeast quarter, the south half of the northwest quarter, the northeast quarter of the southeast quarter, and the southwest quarter of section thirteen, containing three hundred and sixty acres; the west half and the southeast quarter of section fifteen, containing four hundred and eighty acres; the southeast quarter of the northeast quarter, the southeast quarter of the southwest quarter, and the north half of the southeast quarter of section seventeen, containing one hundred and sixty acres; the west half of the northeast quar-
310 ter, the south half of the southeast quarter, and the west half of section twenty-three, containing four hundred and eighty acres; all of section twenty-five, containing six hundred and forty acres; all of section twenty-seven, containing six hundred and forty-acres; the southeast quarter of the northwest quarter of section thirty-one, containing forty acres; all of section thirty-three, contain-

ing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

Township Thirty-nine, Range Two.

The southeast quarter and the north half of the southwest quarter of section nineteen, containing two hundred and thirty-eight acres and seventy-nine hundredths of an acre; the southwest quarter of section twenty-one, containing one hundred and sixty acres; the southwest quarter and the southeast quarter of section twenty-three, containing three hundred and twenty acres; the northwest quarter and the west half of the southwest quarter of section twenty-five, containing two hundred and forty acres; the northeast quarter of the northeast quarter of section twenty-seven, containing forty acres; the northeast quarter, the northeast quarter of the southwest quarter, the north half of the southeast quarter, and lots one, two, and three of section twenty-nine, containing three hundred and seventy-
311 three acres and twenty-hundredths of an acre; the north half of the southwest quarter, the northwest quarter of the southeast quarter, and the north half of section thirty-one, containing four hundred and forty acres and fifty-one hundredths of an acre; the west half of the southeast quarter, the northeast quarter of the southeast quarter, and the northeast quarter of section thirty-five, containing two hundred and eighty acres.

Township Thirty-six, Range Three.

The northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, and the south half of section three, containing six hundred and ninety-five acres and ninety-four hundredths of an acre; the east half of the northeast quarter and the northwest quarter of the northeast quarter of section five, containing one hundred and eighty-seven acres and seventy-two hundredths of an acre; all of section nine, containing six hundred and forty acres; the southeast quarter of the southeast quarter and the west half of section fifteen, containing three hundred and sixty acres; the southeast quarter of the southeast quarter of section seventeen, containing forty acres.

Township Thirty-seven, Range Three.

All of section three, containing six hundred and thirty-five acres and seventy-four hundredths of an acre; all of section five,
312 containing six hundred and thirty-seven acres and eighty-hundredths of an acre; all of section seven, containing six hundred and forty-five acres and ten-hundredths of an acre; the east half of the northwest quarter, the southwest quarter of the southwest quarter, and the east half of section nine, containing four hundred and forty acres; the northeast quarter, the east half of the southeast quarter, the northwest quarter of the southeast quarter, and the west half of section fifteen, containing six hundred acres; the west half of the southwest quarter, the northeast quarter of the

southwest quarter, and the north half of section seventeen, containing four hundred and forty acres; the west half of the southwest quarter of section nineteen, containing eighty-three acres and eighty-three hundredths of an acre; all of section twenty-one, containing six hundred and forty acres; the west half of the northeast quarter, the west half of the southeast quarter, and the west half of section twenty-seven, containing four hundred & eighty acres; all of section twenty-nine, containing six hundred and forty acres; the west half of the southeast quarter, the northeast quarter of the southeast quarter, the west half, and the northeast quarter of section thirty-one, containing six hundred and eleven acres and twenty-
313 hundredths of an acre; the northeast quarter of the northwest quarter and the west half of the northwest quarter of section thirty-three, containing one hundred and twenty acres.

Township Thirty-eight, Range Three.

All of section three, containing six hundred and thirty-three acres and thirty-four hundredths of an acre; the west half of the southwest quarter and the southeast quarter of the southwest quarter of section five, containing one hundred and twenty acres; the south half of the southwest quarter, lot five, and the southeast quarter of the southeast quarter of section seven, containing one hundred and seventy-one acres and four-hundredths of an acre; the east half of the northwest quarter, the southwest quarter of the northwest quarter, the east half, and the southwest quarter of section nine, containing six hundred acres; all of section fifteen, containing six hundred and forty acres; all of section seventeen, containing six hundred and forty acres; the west half of the northeast quarter, the west half, and the southeast quarter of section nineteen, containing five hundred and fifty five acres and eighty-four hundredths of an acre; all of section twenty-one, containing six hundred and forty acres; the south half of the southwest quarter and the south half of the southeast quarter of section twenty-seven, containing one
314&315 hundred and sixty acres; all of section twenty-nine, containing six hundred and forty acres; all of section thirty-one, containing six hundred and forty-one acres and forty-four hundredths of an acre; all of section thirty-three, containing six hundred and forty acres.

Township Thirty-nine, Range Three.

The southeast quarter of the southeast quarter of section twenty-one, containing forty acres; the north half of the northeast quarter, the north half of the northwest quarter, and the south half of the southeast quarter of section twenty-seven, containing two hundred and forty acres; the west half of the southwest quarter and the northwest quarter of section twenty-nine, containing two hundred and forty acres.

* * * * * * *

The said tracts, as described on the foregoing pages, numbered two to twenty-three, inclusive, make the aggregate area (102,622.89)

one hundred and two thousand six hundred and twenty-two acres and eighty-nine hundredths of an acre:

316 Now know ye that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted, and by these presents do give and grant, unto the Wisconsin Central Railroad Company, its successors and assigns, the tract of land selected as aforesaid and described in the foregoing, yet excepting and excluding "all mineral lands," should any such be found to exist in the tracts embraced in the tracts embraced in the foregoing descriptions; to have and to hold the said tracts, with the appurtenances thereof, unto the said Wisconsin Central Railroad Company, its successors and assigns, forever.

In testimony whereof I, Rutherford B. Hayes, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, this 9th day of January, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States one hundred and second.

By the President:

R. B. HAYES,

[SEAL.] By B. L. LANG, *Secretary.*

S. W. CLARK,
Recorder of the General Land Office.

317 The United States of America to all to whom these presents shall come, Greeting:

Whereas, by the act of Congress, approved May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and a resolution explanatory of and in addition to said act, approved June 21, 1866, and an act authorizing change of line, approved March 3, 1875, authority is given to the Wisconsin Central Railroad Company, a corporation existing under the laws of the State of Wisconsin, to construct a railroad under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the State of Wisconsin, for the use and benefit of said railroad company, "every alternate section of public land designated by odd numbers for ten sections in width on each side of said railroad;"

And whereas it is further enacted that in case it shall appear that the United States have, where the line of route of said road is definitely fixed, sold, reserved, or otherwise disposed of any section or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, then so much

318 land is set apart to be selected for the purposes aforesaid nearest to the tier of sections above specified as shall be equal to the lands which the United States have sold or otherwise disposed of, or to which the right of pre-emption or homestead has attached: Provided, That the lands to be so located shall in no case be further than twenty miles from the line of said road;

And whereas it is further enacted by the seventh section of said act that when the Governor of the State of Wisconsin shall certify that any section of twenty consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad patents shall issue to said company for the lands thereby granted;

And whereas it is shown by certificates of the government of the State of Wisconsin, bearing dates November 20th, 1872; August 16th, 1873; February 13th and 20th, 1874; December 29th, 1875; October 30th, November 15th, and December 27th, 1876, and maps therewith, now on file in the General Land Office, that the said Wisconsin Central Railroad Company has completed and equipped in the manner prescribed by said acts its line of road from Portage City to Ashland, in section fourteen, township forty-five north, range three west, fourth principal meridian;

319 And whereas certain tracts have been selected by Almanson Eaton, the agent for the Wisconsin Central Railroad Company, as shown by his original lists of selections, bearing date May 23 and June 1st and 10th, 1878, and certified under same dates by the registers and receivers at Eau Claire, Wausau, and Bayfield, Wisconsin, the said tracts being described as follows, to wit:

North of base line and east of fourth principal meridian:

Towship Thirty-nine, Range One.

The northeast quarter of section one, containing twenty-five acres and four-hundredths of an acre; the southwest quarter of section one, containing one hundred and sixty acres; the northwest quarter of the southeast quarter of section one, containing forty acres; the southeast quarter of the southeast quarter of section one, containing forty acres; the southeast quarter of the southeast quarter of section three, containing forty acres; the west half of section five, containing two hundred and eighty-one acres and fifty-two hundredths of an acre; the northeast quarter of section seven, containing one hundred and sixty acres; the lots numbered one, two, three, four, five, six, seven eight, nine, ten, thirteen, fourteen, and fifteen of section seven, containing five hundred and fifteen acres and five-hundredths

320 of an acre; the north half of section eleven, containing three, hundred and twenty acres; the east half of the southwest quarter of section eleven, containing eighty acres; the northeast quarter of the southeast quarter of section eleven, containing forty acres; the west half of the southeast quarter of section eleven, containing eighty acres; the northwest quarter of the northeast quarter of section thirteen, containing forty acres; the south half of the northeast quarter of section thirteen, containing eighty acres; the east half of the northwest quarter of section thirteen, containing eighty acres; the northeast quarter of the southeast quarter of section thirteen, containing forty acres; the northeast quarter of the southwest quarter of section thirteen, containing forty acres; the west half of the northwest quarter of section seventeen, containing eighty acres; the west half of the southwest quarter of section

seventeen, containing eighty acres; the northwest quarter of the northeast quarter of section nineteen, containing forty acres.

Township Forty, Range One.

The southwest quarter of the southwest quarter of section one, containing forty acres; the south half of the northwest quarter of section three, containing eighty acres; the south half of section three, containing three hundred and twenty acres; all of
321 section five, containing six hundred and thirty-six acres and ninety-two hundredths of an acre; the northwest quarter of the northeast quarter of section nine, containing forty acres; the north half of the northwest quarter of section nine, containing eighty acres; the southwest quarter of the southwest quarter of section nine, containing forty acres; all of section eleven, containing six hundred and forty acres; the northeast quarter of the northwest quarter of section thirteen, containing forty acres; the west half of the northwest quarter of section thirteen, containing eighty acres; the northwest quarter of the northeast quarter of section seventeen, containing forty acres; the west half of the northwest quarter of section seventeen, containing eighty acres; the northwest quarter of the southwest quarter of section seventeen, containing forty acres; the lots numbered three, four, five, six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen, and eighteen of section nineteen, containing four hundred and twenty-three acres and twelve hundredths of an acre; the southeast quarter of the northeast quarter of section twenty-one, containing forty acres; the northwest quarter of the northwest quarter of section twenty-one, containing forty acres; the south half of section twenty-one, containing
322 three hundred and twenty acres; the southwest quarter of the northwest quarter of section twenty-three, containing forty acres; the west half of the southwest quarter of section twenty-three, containing eighty acres; the southeast quarter of the southwest quarter of section twenty-three, containing forty acres; the east half of the southeast quarter of section twenty-five, containing eighty acres; the northeast quarter of section twenty-seven, containing one hundred and sixty acres; the east half of the northwest quarter of section twenty-seven, containing eighty acres; the northwest quarter of the northwest quarter of section twenty-seven, containing forty acres; the east half of section twenty-nine, containing three hundred and twenty acres; the east half of section thirty-one, containing three hundred and twenty acres; the lots numbered one, two, three, four, seven, eight, eleven, thirteen, eighteen, nineteen, and twenty, of section thirty-one, containing four hundred and forty acres.

North of base line and west of fourth principal meridian:

Township Thirty-nine, Range One.

The northeast quarter of the southwest quarter of section thirteen, containing forty acres; the west half of the southwest quarter
323 of section thirteen, containing eighty acres; the lot numbered two, of section thirteen, containing sixty-one acres.

Township Forty, Range One.

All of section five, containing three hundred and fifty-three acres and two-hundredths of an acre; the northeast quarter of section eleven, containing one hundred & sixty acres; the west half of section eleven, containing three hundred and twenty acres; the west half of the southeast quarter of section eleven, containing eighty acres; all of section thirteen, township forty, range one, containing five hundred and eighty-six acres and sixty-six hundredths of an acre.

The said tracts as described on the foregoing pages numbered one to thirteen, inclusive, made the aggregate area (29,398.51) twenty-nine thousand three hundred and ninety-eight acres and fifty-one hundredths of an acre:

324 Now know ye that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted, and by these presents do give and grant, unto the Wisconsin Central Railroad Company, its successors and assigns, the tracts of land selected as aforesaid and described in the foregoing, yet excepting and excluding "all mineral lands," should any such be found to exist in the tracts embraced in the foregoing descriptions:

To have and to hold the said tracts, with the appurtenances thereof, unto the said Wisconsin Central Railroad Company, its successors and assigns, forever

In testimony whereof I, Rutherford B. Hayes, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the, city of Washington, this tenth day of August, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

By the President:

R. B. HAYES.

[SEAL.] W. H. CROOK, *Secretary.*

325 S. W. CLARK,
Recorder of the General Land Office.

Ex. H.

Sanders' Dep.

WISCONSIN CENTRAL RAILROAD COMPANY
vs.
PRICE COUNTY *et al.*

Deposition in the above-entitled case of E. B. Sanders, taken before me, at my office, in the city of Wausau, Marathon Co., Wis.

E. B. SANDERS, being first duly sworn, testified as follows:

Q. Where do you reside?
A. At the city of Wausau, Wis.

Q. What is your age?
A. 35 years.
Q. What is your position?
A. I am receiver of the Gov't land office, located at Wausau, Wis.
Q. How long have you held that position?
A. Since February, 1883.
Q. What is this paper (showing witness paper marked "Ex. A" and attached hereto)?
A. A certified copy of a letter from the Commissioner of the General Land Office withdrawing certain lands from sale for the benefit of the Portage, Winnebago and Superior railroad under the act of March 5, 1866, 3d section, and joint resolution
326 of 21st June, 1866.
Q. State whether or not there is a record in your office of the withdrawal of the lands mentioned in that letter.

Objected to as incompetent and irrelevant, &c.

—. There is a record in the land office for the Wausau district, of which I am the receiver, of the receipt and acknowledgement of of the letter referred to, of which this is a certified copy, withdrawing the lands in question for the benefit of said railroad, which was accompanied by a diagram indicating the ten and twenty mile limit within which the land owned by the United States on the odd-numbered sections were located. The plat books of the office were marked to correspond with the lines on said diagram indicating said ten and twenty mile limit-.
Q. State whether or not the odd-numbered sections referred to in said letter have been in the general market and open to public sale since that time.

Objected to same as before.

A. There is no record, to my knowledge, in the land office of the restoration of any of the withdrawn lands to private entry or public sale.

E. B. SANDERS.

Filed Dec. 8, 1884.

CHAS. H. DARLINGTON,
Clerk Cir. C't.

327 *Railroad Record, "Ex. A," Vol.* 4, *Page* 289.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *December* 10*th*, 1864.

Register and receiver, Stevens' Point, Wis.

GENTLEMEN: I enclose herewith a diagram of the Portage, Winnebago and Superior railroad under act May 5, 1886, 3d sect., and joint resolution 21st June, 1866, with the 10 and 20 mile limits of the land grant designated thereon.

You are hereby directed to withdraw from sale or location, pre-emption or homestead entry, all the odd-numbered sections of lands falling within those limits and to regard as increased in price to $2.50 per acre all the even-numbered sections within the 10 miles or granted lands.

The even sections between the 10 and 12 mile limits are not affected by this withdrawal.

The lands herein increased to $2.50 per acre you will dispose of only under the pre-emption & homestead laws and at that ratabil*ities*, except in case of *bona fide* pre-emption settlement prior to this letter of withdrawal. In such cases settler will, under the pro-
328 vision of the act of 27 March, 1854, be permitted to prove up and pay for his land, whether upon odd or even sections, at $1.25 per acre.

This order will take effect from the date of its receipt by you, and you are requested to acknowledged the same by date.

Very respectfully, JAS. WILSON,
Commissioner.

(Endorsements:) Filed Dec. 8, 1884. Char-es H. Darlington, clerk c't. c't. Ex. A. Commissioner's letter, Dec. 10, 1869. Transmits diagram of the line of the Portage, Winnebago & Superior railroad and showing the 10 & 20 mile limits. Received Jan. 10, 1870. Acknowledged Jan. 10, 1870. U. S. Land Office, Wausau, Wis., Dec. 5, 1884.

I hereby certify that the within and foregoing is a true and correct copy, including notations and briefing, of the original letter on file at this office, and that I have compared it with the original, and that it is a true copy of the whole thereof.

E. B. SANDERS, *Receiver.*

329 EXHIBIT I.

Price County Circuit Court.

WIS. CEN. R. R. Co. *vs.* PRICE COUNTY.

Tried before Hon. Chas. M. Webb at Jan. term, 1885.

Appearances: For plaintiff, E. H. Abbot & T. L. Kennan; for defendant, Mead, Hand & Barry.

Counsel for defendant objected to any evidence under the complaint.

Objection overruled and an exception taken.

Mr. HAND: We ask leave of the court to amend the answer by striking out the admission of "title in fee" in the plaintiff of the lands described in the complaint. We admit title, but not title in fee, and all we ask to strike out is "title in fee" and insert in that place "as hereinafter set forth," so that it will appear from the an-

swer that the defendants claim that the title which the plaintiff has is merely an equitable title.

Amendment allowed.

Counsel for plaintiff now offered in evidence an act of Congress of May 5th, 1864, granting the lands to the State of Wisconsin, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin;" also chapter 362 of the Laws of the State — Wisconsin of 1866, entitled "An act to incorpo-
330 rate the Portage & Superior R. R. Co. and to execute the trust created by the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin, approved May 5th, 1864."

Also offered in evidence chapter 314 of the Private and Local Laws of the State of Wisconsin for 1866, entitled "An act to incorporate the Winnebago & Lake Superior Railroad Company and to execute the trust created by section 3 of the act of Congress entitled 'An act granting lands to aid in the construction of certain railroads in the State of Wisconsin, approved May 6th, 1864.'"

Mr. KENNAN: We will now consider that the amendments of those chapters are in evidence conferring the grant upon the Wisconsin Railroad Co.

Counsel for plaintiff now offered evidence an act of the Legislature of the State of Wisconsin approved April 29th, 1869, entitled "An act to authorize the Portage & Lake Superior R. R. Co. to consolidate with the Winnebago & Lake Superior R. R. Co. under the name of the Portage and Superior R. R. Co."

Counsel for defendant objects to this evidence and moves to strike it out under the complaint. It is not a part of the plaintiff's case, and the tendency of this evidence would be to prove an equitable
331 title, and the plaintiff only pleads a simple legal title, and it is inadmissible under the pleadings.

Ruling reserved and the proof taken subject to the objection.

The COURT: I will let him prove his case in his own way, and after we get through we will see what is shown.

Counsel for plaintiff now offered in evidence an act of the Private and Local Laws of 1870 to incorporate the Portage, Stevens' Point and Superior R. R. Co., chapter 349.

Objected to. Ruling reserved and the proof taken subject to the objection.

Counsel for plaintiff now offered in evidence chapter 27 of the laws of 1871, entitled "An act to change the name of the Portage, Winnebago and Superior R. R. Co."

Counsel for plaintiff now offered in evidence a patent from the State of Wisconsin to the plaintiff of the lands described in the plaintiff's complaint, bearing date the 25th of February, A. D. 1884, and the patents may be considered read in evidence. It contains a description of the lands described in the complaint, together with a good many more.

Objected to as immaterial and irrelevant; objection overruled and an exception taken.

332 Admission.—It is admitted by the parties in open court that these lands described in the plaintiff's complaint were assessed as alleged in the complaint, in 1883, in the town of Worcester, and the amount of taxes levied and carried out against each description as set forth in the exhibit attached to the complaint.

W. E. WILBUR, a witness called by the plaintiff, being duly sworn, testified as follows:

Q. What office do you hold in the town of Worcester?
A. The office of town clerk.
Q. Is that a volume of your records?
A. It is.
Q. Please turn to the record of election in April, 1883, and show me who were elected assessors.

Objected to, any evidence questioning the election of the assessors who performed the assessment in the year 1883 in the town of Worcester, on the ground that it is incompetent, irrelevant, and immaterial.

Ruling reserved and the proof taken subject to the objection.

Q. Will you read from the proceedings of the election just to show who were the assessors elected in 1883?
A. The assessors elected for 1883 were Ed. Turner, Jno. McCarthy, and G. L. Turner.
Q. Is this the assessment-roll for 1883 in your town?
A. It is.

Mr. KENNAN: I will now offer that in evidence for the purpose of showing by whom the assessment was made, as
333 one thing, and perhaps one or two others.

Objected to as being irrelevant, incompetent, and immaterial.

Mr. KENNAN: One of the purposes of offering it is to show that the assessment was made by W. D. Gumaer, Allen Jackson, and John McCarthy. I wish to show that this assessment-roll was verified on the 2d of August, 1883.

The COURT: That is, the assessors made their return on that day?

Mr. KENNAN: The affidavit was made on that day and the return apparently also. I offer it for the purpose of showing that the lands described in the plaintiff's complaint were not assessed to any one nor to unknown.

Objected to as being immaterial and irrelevant.

Ruling reserved & the proof taken subject to the objection.

Mr. KENNAN: I offer the assessment-roll also to show that while it purports to be the assessment-roll of a great many thousand acres of land that none of it is assessed to any one.

Objected to as immaterial and irrelevant.

Ruling reserved & the proof taken subject to the objection.

334 Admission.—It is also admitted by the parties in open court that the amounts were returned as alleged in the complaint by the county treasurer.

Plaintiff rests.

Counsel for defendant now moved for a nonsuit on the ground that the plaintiff has failed to prove legal title to the lands described in the complaint, and generally on the ground that there is insufficient evidence.

Motion for a nonsuit overruled and an exception taken.

Mr. KENNAN: The plaintiffs rest, with the understanding that they may offer proof showing that all these lands except 11 forties are outside of the ten-mile limit and within the 20-mile limit.

EDWARD RUTLEDGE, a witness called by the defendant, being duly sworn, testified as follows:

Direct ex. by Mr. BARRY:

Q. You may state your business.
A. Well, I follow lumbering.
Q. Pine lands?
A. Yes, sir.
Q. Have you bought by contract or deed in any way from the R. R. Co. any pine lands within the last 4 years?

Objected to for the reason that the question does not confine it to the lands described in the complaint.

Objection overruled and exception taken.

A. Yes, sir; I have.

335 Q. Have any of these lands been located in town. 37, one west, this town of Worcester, town. No. 37, range one west, lands that you have bought of the R. R. Co. within the last 4 years?
A. Well, sir, I could not say unless I look back to my memorandas, and I hav-n't those here.
Q. Have you any memorandum or plat book here?
A. No, sir; not of those.
Q. You don't know that you have a contract for any lands in section 19, town. 37, range one west?
A. Not of the Wis. Central R. R.
Q. Of any one else in 19, 37, 1 west?
A. We have an option on the timber in that section.
Q. Then you were interested in the timber on section 19, 37, 1 west. Did you ever purchase the contract for the timber?
A. There is no contract; we have simply an option.
Q. Please explain what the option is.

Objected to if the agreement is in writing.

The COURT: Was your agreement in writing?
A. We simply paid the company for this timber with the understanding that if the company got patents for these lands or title that we should have the timber.

Mr. BARRY:

Q. That was the nature of the purchase of the timber in section 19, 37, 1 west?

A. Yes, sir.

Q. And the same applied to section 31, in the same town.?

A. I believe it does.

Q. Does it follow all through the lands you purchased of the company or the pine in 19, 37, 1 west?

336 A. I think it does.

Q. Did you cut the timber off from any of those lands?

A. We did; yes.

Q. When?

A. In 1882 & 1883.

Q. Off from any in 37, 1 west?

Objected to.

Q. Did you cut that timber with the consent and understanding of the R. R. Co.?

Objected to.

The COURT: Find out when he cut it.

Mr. BARRY: Was that with the consent and understanding of the R. R. Co.?

A. I never said anything to the R. R. Co. about it. We simply went on and cut the timber on the conditions I have stated.

Q. Didn't the company know you were to cut them?

A. I don't know anything about that.

Q. Wasn't that the understanding when you paid your money?

Objected to.

The COURT: You should not cross-examine the witness. In admitting this evidence I do not pass upon the competency or materiality of it, but I will reserve that question.

Mr. BARRY: Can I ask if this option or agreement between the witness and the R. R. Co. in paying for this pine that he cut allowed him to go on and cut it when he pleased, and when they got title from the Government they would transfer him the title? Was that the understanding?

Objected to. Ruling reserved and the proof taken subject
337 to the objection.

A. Well, I think there was never any understanding about it. We simply put our money against that timber—those estimates—with the understanding that when they got patents for the land we should have the timber. From my knowledge we never had the scratch of a pen from the company up to that time. We simply had a receipt for the timber.

Q. Did that option extend to lands in 37, 2 west, section 7—this same bargain?

A. Yes, sir.

Q. Were those lands cut at the same time?
A. Yes, sir; the same year.
Q. I mean section 7.
A. I couldn't tell the description without the plats.
Q. They were known as the railroad forties, were they not?
A. Yes, sir.
Q. Did this same bargain extend to 37, 2 west, and 7, 19, 21, 23, 25, 29, 33, 35?

Mr. KENNAN: How is that? I didn't understand the question.
Mr. BARRY: I asked him if the same bargain extended to these lands as those to 37, 1 west, and he said it did. I asked him if he cut those at the same time, and he said he did.

A. I cut them the same year.
Q. Do you remember the time when this option, this so-called option, was made?
A. No; I couldn't state.
Q. About the time, as near as you can recollect.
338 A. Well, sir, I couldn't tell within two or three months.
Q. Was it made before the cutting?
A. Yes, sir; it was made before the cutting.
Q. Then it was made, you would say, in the year 1881, or before that?
A. Later than that, I think.
Q. During 1882?
A. I would not be positive, but I think it was in the summer of 1882.
Q. You think it was in the summer of 1882?
A. I think so—that is, to the best of my recollection—but I would not say positive. That was when the agreement was entered into in regard to these lands?
Q. You paid all down that *that* you were to pay for the pine timber? *Q.* You paid the full price?
A. Yes, sir; we did.
Q. Then you cut all the pine timber off?
A. Well, not all, but most of it.
Q. What is the character of these lands, aside from their timber? After the timber is cut off, what is the character of the lands?
A. What do you mean—the growth of other timber or the quality of the soil, or what?
Q. In regard to their adaptability for agricultural purposes or anything else.
A. Well, I think it is about the same as the other lands from those towns. You probably know about as much about that as I do.
Q. What is that?
A. Well, the growth of the other timber is birch, hemlock, & maple.
Q. What do you consider the lands worth with regard to their value after the pine is cut off?

Objected to.

338½ Q. Do you consider them worth much of anything?

Objected to. Ruling reserved, & the proof taken subject to the objection.

A. That I would not be able to say—what they were worth if the pine was cut off. I couldn't put a value on them.

Q. What do you consider the lands up in this country worth, aside from the pine timber? Do you consider that about all the value there is to it, the pine growing on it?

A. You mean the lands?

Q. Yes, sir; the lands. Do you consider the land valuable chiefly for the pine there is on it, or otherwise?

A. Well, I could not say as to that. We keep our takes-up on the cut lands, on our own lands, and we have never placed any value upon them.

Mr. KENNAN: I wish it understood that this testimony was all taken under objection, and I now move to strike it all out.

Ruling reserved & proof taken subject to the objection.

ALEXANDER MCDONNELL, a witness called by the defendant, being duly sworn, testified as follows:

Direct ex. by Mr. BARRY:

Q. Will you please state your business?

339 A. Well, I am a logger; deal in logs some and pine lands.

Q. You do deal in pine lands?

A. Yes, sir.

Q. Have you had any transactions with the Wis. Cen. R. R. for the pine timber or pine lands during the past 4 years?

Objected to. Ruling reserved and the proof taken subject to the objection.

A. I have.

Q. Can you tell us where those lands were located?

—. Well, some of them were located in 28, 2 west, and 39, 2 west.

Q. Have you got a plat or memorandum locating those lands specifically?

A. No, sir; I hav-n't—not with me.

Q. Can you tell about the section in town. 32 west?

A. There were several sections.

Objected to as being irrelevant and for the reason that there isn't any land mentioned in the complaint as being in that town. Ruling reserved and the proof taken subject to the objection.

Q. Were any of those lands located in section one, town. 38, 2 west?

A. I think there was.

Q. Do you remember about the number of forties?

A. I don't think it exceeded two or three.

Q. Can you tell us about the character of the country that those two forties were located in or where they are?

A. I think they were located in the southwest quarter.
Q. You didn't have all the southwest quarter, did you?
A. I don't think—I am not positive—I don't think I had.
340 Q. Do you remember which half of it you had—north or south, east or west?
A. No, sir.
Q. Did you have any lands in section 5, in that town.?
A. I think we did.
Q. About how much?
A. I couldn't answer.
Q. Did you have any lots in that section 5—fractional lots?
A. I could not answer.
Q. In section 7 did you have some lands—38, 2 west?
A. I think so.
Q. Do you remember how much you had in that section?
A. No, sir.
Q. Do you know in what part of the section you had it located in?
A. No, sir; I couldn't tell you.
Q. Did you have any lands in section 9?
A. There can't be much in section 9.
Q. There are only 4 forties—3 or 4 forties—in the northwest quarter and one forty in the southwest quarter. Do you remember whether any of those lands were?
A. No, sir; I don't remember which of those.
Q. Did you have any lands in section 11, 38, 2 west?
A. Yes, sir.
Q. About how much—could you tell?
A. No, sir.
Q. Do you know what part of the section they were in, the lands you did have?
A. No; I think there was some in each quarter.
Q. Did you have all the northeast quarter?
A. That I could not tell you.
Q. The whole section is here, excepting one quarter in section 13. Did you have any lands in that?
A. Yes, sir; I think so.
Q. Those you can't definitely locate, either; can you?
341 A. Well, I think they were the north tier of forties.
Q. That would be the north half of the northeast and the north half of the northwest quarters?
A. Yes, sir.
Q. In section 15 did you have any?
A. Yes, sir.
Q. Do you know where those were located?
A. Well, I think there were some in each quarter of 15.
Q. Did you have any lands in section 17?
A. Yes, sir.
Q. About how much of that section?
A. That I can't tell you.
Q. Those are scattered all over the section, too?
A. I think so.

Q. Did you have any lands in section 19, in that town.?
A. I think so—that is, the timber; we didn't have any land.
Q. Do you know what quarter those are in?
A No, sir.
Q. Section 21—did you buy any timber in that section?
A. Yes, sir.
Q. Can you tell us about how much of that?
A. No, sir; I cannot.
Q. Did you have any in the northeast quarter?
A. I can't tell you.
Q. Did you have any in section 23?
A. If I recollect right, there is one forty in section 23.
Q. The northwest of the southeast and the southeast of the southeast—do you remember whether it is either of those forties?
A. The northwest of the southeast.
Q. In section 27 did you have any?
A. Yes, sir.
Q. About how much, if you know or remember?
A. Well, I think there was three-quarters of the section.
Q. What three-quarters were those?
A. I think it is all except the southeast quarter.
342 Q. Except the southeast?
A. Yes, sir.
Q. You have the west half and the northeast quarter?
A. Yes, sir.
Q. Did you have any in section 29?
A. No, sir.
Q. Do you remember whether you had any in section 31?
A. No, sir.
Q. In 33?
A. Maybe two or three forties.
Q. Was the pine you bought on those lands bought at one time all through the town.?
A. Yes, sir.
Q. Bought from the R. R. Co., the plaintiffs here?
A. Yes, sir.
Q. When did you buy this pine of them?
A. I bought it in Oct., 1882.
Q. You haven't cut any of them?
A. No, sir.
Q. Have you cut those lands?
A. No, sir.
Q. Did you pay for the pine that time?
A. Yes, sir.
Q. The full price?
A. Yes, sir.
Q. Can you tell us whether that bargain and purchase was to include all of the timber on railroad lands in those sections that I have mentioned?

MR. KENNAN: Was this bargain you speak of with the R. R. Co. in writing?

A. Well, sir, we paid them the money and they have given us the receipt, and they were to give us a title when they got it from the United States Government.

Q. Did you say the receipt was in writing?

A. Yes, sir.

Q. Did that express the agreement between you and the company—the receipt you took?

343 A. It was a receipt for so much money for the pine timber on those lands, and they were to give us a title when they got it from the United States Government.

Objected to, any evidence tending to show what the agreement was, for the reason that the written agreement is the best evidence. Objection sustained and an exception taken.

Mr. BARRY: Have you got that paper with you?

A. No, sir; I have not.

Mr. HAND: We wish to prove the payment of the money on pine timber standing on lands in certain sections. Now whether there was anything in writing or not certainly cannot interfere with the person who paid the money swearing that he paid the money on the pine timber in those sections.

Mr. BARRY:

Q. Was the purchase of this pine timber absolute and finished by the payment of your money at that time to the company?

Objected to the same as before. Objection sustained and an exception taken.

Q. State whether the getting of the patents by the company hereafter had anything to do with the purchase of that timber.

Objected to same as before. The contract must show for itself.

The COURT: I think if there is any written contract or agreement between the company and the witness under which he acted

344 in whatever he has done that the contract itself should be introduced.

Objection sustained and an exception taken.

Mr. HAND: Is that receipt still in existence?

A. Yes, sir.

Q. Is it where you can find it?

A. Yes, sir.

Q. Is your receipt at home—at Chippewa Falls?

A. Yes, sir.

The COURT: The testimony of this witness may be stricken out.

Defendants except.

W. E. WILBUR, a witness recalled by the defendant, testified as follows:

Direct ex. by Mr. HAND:

Q. Have you the town clerk's record?
A. Yes, sir.
Q. Who were the assessors elected at the spring election of 1884 in the town of Worcester?
A. 1884?
Q. No; 1883.
A. I answered it once.
Q. Well, did those officers serve during the term, as the records show?
A. Not all of them.
Q. Who were those who did not serve?
A. G. L. Turner was one and Ed. Turner.
Q. Those failed to qualify?
A. They resigned.

Mr. KENNAN:

Q. Are you testifying from your own knowledge?
A. No, sir; from the record.

Objected to for the reason that the record is the best evidence. Objection overruled and an exception taken.

Q. Do the records show those vacancies, how they were caused, whether they failed to qualify, or by resignation?
A. Yes, sir.
Q. Which was it?
A. Resignation of G. L. Turner.
345 Q. And how was it of the other Turner?
A. It was by resignation.
Q. Were those resignations accepted, according to the record there?
A. Yes, sir.
Q. Did the board appoint others to fill vacancies?
A. Yes, sir.
Q. I will ask you to read from the record if the board appointed any assessors in place of those resigned.

(Witness reads:)

A. Resignation of G. L. Turner presented. On motion, Allen Jackson was appointed assessor in place of G. L. Turner, resigned. Resignation of Ed. Turner, assessor, presented, and, on motion, the same was accepted. On motion of Supervisor Kuhn, recommended by Supervisor Cramer, an order was made duly appointing W. D. Gumaer to discharge the duties of the said office of assessor until the same was filled by election.

Mr. KENNAN: I reserve the right to make any objection that I desire to make afterwards.

Q. Did these officers qualify?
A. May 11th, 1883, W. D. Gumaer filed the oath of office as assessor.
Q. How was it with Jackson?

A. May 7th, Mr. Jackson filed his oath of office.

Q. Were those the officers who did the assessing for that year and signed the assessment-roll?

A. I think they were.

Cross-ex. by Mr. KENNAN:

Q. Was that at a general or special meeting of the town board or wasn't it either? *A.* The board met pursuant to the call of the chairman?

A. Yes, sir.

Q. How many present?

A. All the members present.

Q. What is the date of the meeting?

346 A. The time Mr. Jackson was appointed was May 5th, 1883.

Q. Was that another special meeting of the board on the call of the chairman?

A. Yes, sir.

Q. How many present?

—. All members present.

Counsel for defendant now offered in evidence the certified plat or diagram showing the limits of both the 20-mile and 10-mile limit of the Wis. Cen. R. R. land grant through Price county, coming from the Secretary of the Interior's office, marked Ex. A. Received without objection.

Also offered in evidence a certified plat of the line of definite location of the Wis. Cen. R. R. through Price county or through the territory now embraced in Price county, marked Ex. B, together with the accompanying letter and proceedings of the railroad company in adopting it as definite line of location, together with all the endorsements, certificates, and filings on the plat. Received without objection.

Also offered in evidence certified plat of three sections of the Wis. Cen. R. R. lying in Price county, showing the completion of those three sections; also the accompanying papers, certificates, and affidavits and endorsements. The first is a letter dated Feb. 21st, 1874, from the Governor of Wis. to the Secretary of the Interior, stating that he had forwarded

347 by express the certificates showing the completion of the second, third, fourth, & fifth sections of the Wis. Cen. R. R. north from Stevens' Point and the first section south of Ashland, Wis.; also the endorsements upon the jacket covering said letter. The third is a letter dated March 19th, 1874, from the Secretary of the Interior, transmitting to this office the letter and certificates above mentioned. The fourth is the endorsement upon the jacket covering said letter of March 19th, 1874. The fifth is so much of a map showing the line of route of the 5th section of 20 miles of the Wis. Cen. R. R., as constructed, as shows said line between the south line of township 34 north of range one east to a point in section 13, township 36 north, of range one east, with the certificates and en-

dorsements thereon. 6th. Of the certificates of the Governor of Wisconsin, dated Feb'y 20th, 1874, attached to the foregoing map. 7th. A letter of Dec. 26th, 1876, from W. K. Mendenhall to the Secretary of the Interior, transmitting a map showing the line of route of the 6th section of the Wis. Cen. R. R., as constructed, north of Stevens' Point, with the endorsements thereon. 8th. The endorsements upon the jacket covering the said letter. 9th. The map showing the line
348 of route of the 6th section of 20 miles of the Wis. Cen. R. R., as constructed, from a point in section 13 and township 36 north of range one east to a point in lot 7 of section 19, town. 39, range one east, Wis., with certificates and endorsements thereon. 10th. A letter dated May 20th, 1878, from Charles L. Colby, stating that he has forwarded by express a properly certified map, showing the completion of the 7th section, 26 miles, of the Wis. Cen. R. R. north from Stevens' Point. 11th. The endorsements upon the jacket covering said letter. 12th. Of so much of the map showing the line of route of the 7th section of the Wis. Cen. R. R. constructed north from Stevens' Point as shows said line from a point in lot 7 of section 19, township 39 north, of range one east, to a point on the north line of section 3, township 40 north, of range one west, Wis., with the certificates and endorsements thereon. They are all certified together, being a part of one record.

Objected generally to them all as being irrelevant and incompetent, and to the form of the certificate.

Mr. KENNAN: I have not seen them and don't know what they amount to, but I don't see now what figure they can cut in the case, and I object to each one and to the whole.

Ruling reserved & the proof taken subject to the objection.

349 Mr. HAND: There are three plats showing the three sections of the railroad that are in this county. One of the sections, section 6, is entirely in this county, and the 5th and 7th are only partly in this county, and on those plats are the certificates of the Governor—among other things, an affidavit from Mr. Colby. On one of them there is an affidavit of Mr. Rich, one of the engineers—on two of them, and I don't know but each of them—showing the completion of the road, and the Governor's certificate shows the completion of the road, and these are forwarded by the Governor to Washington. They contain the record evidence of the completion of the road through the territory now embraced in this county, upon which evidence the Secretary of the Interior or the Interior Department is authorized to act in issuing patents.

The papers give the dates of the completion of the selections and all of the particulars with reference to the completion of the different sections. The Governor's certificate is dated Nov. 15th, 1876. The other certificates relate to the two southern towns. and don't reach this county. There is also the plat of section 5, marked Ex. C, of the railroad and the certificate of the Governor of the completion of the road. The certificate is dated Feb. 20th, 1874. The endorsements on the jacket of the plat of section 5 show that it was re-

ceived by the Department of the Interior Feb. 24th, 1874,
350 and on the jacket on the plat of section 6 show that it was received in the Land Office, Department of the Interior, Dec. 26th, 1876, and the jacket and the endorsements on the jacket of the plat of section No. 7 show that it was received May 24, 1878. They are all offered in evidence with all the endorsements and certificates.

Mr. KENNAN: I wish to make an objection to all this class of testimony, and call the attention of the court to the fact that the statute—presumptive evidence of the facts therein stated, and that the grantee therein named became vested at the date thereof with the absolute title in fee to the lands therein described. The supreme court of Iowa have had this question before them and have decided it, it seems to me, in two or three cases.

Ruling reserved and the proof taken subject to the objection.

Counsel for defendant now offered in evidence the lists of lands numbered 15, 16, and 18, of lands selected by the plaintiff, the Wis. Cen. R. R., for patent. List number 15 shows the selection of certain lands described in the plaintiff's complaint, selected by Alanson Eaton, agent of the Wis. Cen. R. R., whose certificate is dated Dec. 7th, 1876. The certificate of the register and receiver of the
351 Eau Claire land office is dated Dec. 15th, 1876, a part of list 15, and purports to have been filed in the Eau Claire land office and forwarded from there to Washington. The certificate of the register and receiver is dated Dec. 15th, 1876, and annexed is also a communication purporting to be from the R. R. company, dated Dec. 15th, 1876.

The date of the receipt of this list in the general land office at Wausau does not appear. List number 16 has annexed also an affidavit of Alanson Eaton, dated Dec. 7th, 1876, who appears to be acting as the agent of the R. R. Co. under an appointment from Gardner Colby, president, which is also annexed, and I will say that it covers the same appointment as annexed to list number 15, and the certificate of the register and receiver of the Eau Claire land office, dated Dec. 15, 1876, showing that the lands were all Government lands, free from conflict or prior claims.

The list appears to have been forwarded to Washington, but the date of the receipt at Washington does not appear, certified by M. C. McFarland, Commissioner of the General Land Office; list number 18, also of lands described in the complaint, containing the affidavit of Alanson Eaton, dated the 22d of May, 1878, and his appointment as agent of the company by Gardner Colby,
352 president. The appointment is dated Aug. 1st, 1875, and the certificate of the register and receiver of the Eau Claire land office is dated June 1st, 1878.

Objected to as being immaterial and irrelevant.

Mr. HAND: Each of these certificates show the fees paid to the receiver of the land office.

Counsel for defendant now offered in evidence certified copies of

patents from the United States Government to the plaintiff upon land-grant lands situated along the Wis. Cen. R. R.; certified copies of patents issued by the United States Government to the plaintiff upon land-grant lands lying along the Wis. Cen. R. R. in Price county; upon lands situated in towns. 36, 37, 38, 39, one east, and 36, 37, 38, 39, 2 east, for the purpose of showing, first, the practice of the United States Government of issuing patents on these lands directly to the plaintiff; and, second, of showing that the United States Government has treated the Wis. Cen. R. R. through Price county as completed and has already issued patents upon a portion of the land-grant lands in Price county and in the same townships in which the lands are located that are described in the complaint in this action.

Mr. KENNAN: If the patents embraced the lands described in the complaint, they are not objected to; and, if they do not, they are.

353 Mr. HAND: There are lands in some of the townships which are the same lands mentioned in the complaint. One is dated Jan. 9th, 1878, and the other is dated Aug. 10th, 1878.

Objected to. Ruling reserved and the proof taken subject to the objection.

(List 15 marked Ex. D, and list 16 marked Ex. E, and list number 18 marked Ex. F; certified copies of patents marked Ex. G.)

Counsel for defendant now offered in evidence list number 18, from the Wausau land office, marked Ex. H, of lands upon which The Wis. Cen. R. R. Co., the plaintiff in this action, applied for a patent, containing lands described in the complaint in this action. The date of the application is Dec. 9th, 1876. The list and all annexed papers are offered in evidence. One of the papers annexed is an affidavit of Alanson Eaton, dated Dec. 7th, 1876, together with his appointment by Gardner Colby, president of the plaintiff company, dated Aug. 1st, 1875, and the certificate of the register and receiver of the Wausau land office, dated Dec. 9th, 1876, showing land-grant lands not subject to prior claims and showing the fee for selection to be paid, certified by the Commissioner of the General Land Office.

Objected to. Ruling reserved and the proof taken subject to the objection.

354 Counsel for defendant now offered in evidence the deposition of E. B. Sanders, receiver of the Wausau land office, together with the certified copy of the order of the Commissioner of the General Land Office, dated Dec. 10th, 1869, withdrawing the land-grant lands belonging to the Wis. Cen. R. R. from market.

The following questions in the deposition are now objected to by the plaintiff in this action:

Q. State whether there is a record in your office of the withdrawal of the lands mentioned in that letter.

Objected to as incompetent and irrelevant.

Q. State whether or not the odd-numbered sections referred to in said letter have been in the general market and open to public sale since that time.

Objected to same as before.

Admission.—It is admitted by the parties in open court that the Wis. Cen. R. R. runs through Price county.

Defendant rests.

Counsel for plaintiff now moved to strike out all the foregoing testimony of defendant as irrelevant, incompetent, and immaterial. Motion overruled and an exception taken.

Counsel for plaintiff now offered in evidence the deposition of Edwin H. Abbot, taken in the above action.

Objected to for the reason that there is nothing for it to
355 rebut, and it is not a proper rebuttal, and the defendant insists upon the objection contained in the deposition.

Ruling reserved and the proof taken subject to the objection.

Counsel for the plaintiff now offered in evidence the commission given by the Governor to Edwin H. Abbot appointing him special agent and attorney of the State of Wis. to procure said lands.

Objected to the appointment on the ground that it is not rebutting evidence.

Ruling reserved and the proof taken subject to the objection.

Counsel for plaintiff now offered in evidence a certified copy of an office letter, dated Nov. 16th, 1877, submitting list number 8 of selections of the Wis. Cen. R. R. to the Secretary of the Interior for approval of lands under the land grant. The letter is from the Commissioner of the General Land Office to the Secretary of the Interior, and is certified to by Mr. Harrison, acting Commissioner of the General Land Office; marked Ex. J.

Objected to as not being rebutting evidence and as immaterial and irrelevant.

Ruling reserved and the proof taken subject to the objection.

Counsel for plaintiff now offered in evidence a certified copy of a letter to Secretary Schurz in reply to that of Dec. 26th, 1877.

356 Objected to as immaterial and irrelevant.

Ruling reserved and the proof taken subject to the objection.

The certified copy of the list of lands selected by the Wis. Cen. R. R. is marked Ex. 1.

The COURT: I will let all the testimony that has not been already stricken out stand, subject to the objections that have been interposed *pro & con*, giving each part of it such weight as I think it entitled to.

Testimony closed.

Price County Circuit Court.

WIS. CEN. R. R. *vs.* PRICE COUNTY.

I, F. W. Spencer, official phonographic reporter for the circuit court in and for the county of Price, State of Wis., do hereby certify that the above and foregoing is a true and correct transcription in long hand of all the testimony and proceedings had on the trial of the above-entitled cause at the Jan. term, A. D. 1885, of said court; that I have carefully compared the same with my original notes, and that the same is a correct statement of such testimony and proceedings and the whole thereof.

F. W. SPENCER, *Reporter.*

357 Ex. J. Abbot's Dep.

Circuit Court Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
vs.
PRICE COUNTY, THE COUNTY TREASURER OF PRICE County, and The County Clerk of Price County, Defendants. } Suit No. 6.

Deposition of Edwin H. Abbot, taken in the above-entitled action before Hugh Ryan, commissioner in and for the county of Milwaukee, in his office, in the city of Milwaukee, in said county, on the 3rd day of January, A. D. 1885, at ten o'clock a. m., pursuant to the annexed notice.

COMMISSIONER'S OFFICE,
January 3d, 1885—10 o'clock a. m.

The plaintiff appeared by T. L. Kennan, Esquire, its attorney; Willis Hand, Esquire, appearing for the defendants. Plaintiff's attorney filed with the commissioner the annexed notice, with admission of service thereon by defendants' attorneys, dated December 10th, 1884.

Thereupon said EDWIN H. ABBOT, being first duly sworn, testified as follows:

Direct examination by Mr. KENNAN:

First interrogatory. What is your name, age, residence, and occupation?

Answer. Edwin Hale Abbot; upwards of 50 years; resi-
358 dence, Milwaukee; occupation, member of the bar, vice-president of the Wisconsin Central railroad, and trustee under the mortgage and bonds of that company.

Second interrogatory. Do you know the parties in this suit?

Answer. Well, I know the plaintiff very well as a corporation. Of course I know something about the defendant-.

Third interrogatory. Are you in any way connected with the

Wisconsin Central Railroad Company? If so, state in what capacity and how long you have been so connected.

Answer. I have been connected with the Wisconsin Central Railroad Company in one way or another—as general legal manager since the company was formed, in 1871; since January, 1879, I have been the active trustee in charge of the railroad and its property and in possession of the same under the mortgage with my associate, John A. Stewart, president of the United States Trust Company, at New York. I am familiar with the history and property and affairs of the plaintiff company.

Fourth interrogatory. State whether the Wisconsin Central Railroad Company is entitled to any lands by grant from the United States; if so, please explain how.

359 Objected to as incompetent. Objection overruled.

Answer. The Wisconsin Central Railroad Company is the donee of all the lands granted by Congress in section 3 of the act approved May 5th, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and published in volume 13, page 66, of the United States Statutes at Large. The acts of the Legislature of Wisconsin conferring the grant upon this particular company are set forth in the statutes of this State, and the Wisconsin Central Railroad Company has been repeatedly recognized by the Legislature and the Governor as holding all the rights to the grant conferred in this section on the State of Wisconsin for the purpose of aiding in the construction of that railroad, which is now the Wisconsin Central railroad. Section 3 of the act of Congress of May 5th, 1864, is as follows: "And be it further enacted, That there be, and is hereby, granted to the State of Wisconsin for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Doty's Island, or Fond du Lac, as said State may determine, in a northwestern direction to Bayfield, and thence to Superior, on Lake Superior, every alternate section of public land, designated by odd numbers, for ten sections in width on each side of said road upon the same terms and conditions as are contained
360 in the act granting lands to said State to aid in the construction of railroads in said State, approved June three, eighteen hundred and fifty-six; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of, any sections or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, that it shall be lawful for any agent or agents of said State appointed by the Governor thereof to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tier of sections above specified as much public land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold or otherwise appropriated or to which the right of pre-emption or homestead has attached as aforesaid, which lands (thus selected in lieu of those sold and to which the right of pre-emption or homestead has attached as aforesaid, together with sections and parts of sections designated by

odd numbers as aforesaid) shall be held by said State or by the company to which she may transfer the same for the use and purpose aforesaid: Provided, That the lands to be so located shall in no case be further than twenty miles from the line of said road."

361 Fifth interrogatory. Now, after the line of route of said road had been definitely fixed and located, did or did it not appear that a portion of the lands so granted within the ten-miles limit had been sold, reserved, or otherwise disposed of by the United States, or that the right of pre-emption or homestead had attached to some of them?

Objected to as incompetent. Objection overruled.

Answer. It did appear that a very large quantity of lands had been disposed of before our grant attached. The lands were not withdrawn from the market by the Secretary of the Interior until September, 1869, while the grant had been made on the 5th of May, 1864, and in that period of time a very large quant-y of lands had been so appropriated that our grant did not attach to them.

Sixth interrogatory. State whether the plaintiff made a claim for lands in lieu of such as had been so disposed of prior to the taking effect of said grant.

Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. The plaintiff has been engaged in a continuous struggle from the time it began to build its road down to the present

362 time, obtaining, or rather endeavoring to obtain, lands properly coming to it under section 3 of the land-grant act, by which expression I wish to describe the act of May 5th, 1864, which I just read from.

Seventh interrogatory. State what efforts, if any, have been made by the plaintiff to secure patents for lands covered by its grant since the completion of its road, in 1877, or before, including the lands embraced in this suit, of which I hand you a list.

Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. It will be more intelligible if I answer this question by a chronological statement of the efforts which have been made. In order to be understood it is necessary to state that the act of May 5th, 1864, was subsequently extended by Congress so that its provisions were in force and the grant unimpaired and the time extended for building the road until the 31st day of December, 1876. The road was not completed through most of Price county for a distance of some ten or a dozen miles until some time in June, 1877. Under the legislation of the State of Wisconsin the system which was recognized by the Legislature and

363 executive department of the State of Wisconsin required the plaintiff to file its lists and get the approval of the Secretary of the Interior Department at Washington before any patents could be issued to the plaintiff. The provisions of

the land-grant act rendered the approval of the Secretary of the Interior essential upon those lists, and, without going into the detail of the contests, I would refer to chapter 6, General Laws of 1875, approved February 10th, 1875, which recognized and substantially obliged the plaintiff to obtain patents from the Land Office at Washington as a prerequisite to the States giving any quitclaim patent of the same lands by the Governor. The provisions of the different land-grant acts are very various, and the act of May 5th, 1864, contains many peculiar and unique requirements. The Secretary of the Interior, from Secretary Delano down to the present time, has always insisted that the company must obtain patents from the United States before the United States would recognize its right to enter upon or in any way exercise control over the lands covered by the grant. When the road was finished—in June, 1877—and the plaintiff expected and was endeavoring to obtain the final issue of patents for all its grant, which it believed itself to have earned by the completion of the road, Secretary Schurz adopted for the
364 Land Department at Washington the rule laid down in the opinion of Mr. Justice Davis in the Leavenworth, Lawrence, and Galveston case, so called, whereby the opinion of the Supreme Court declared that grants of indemnity—that is to say, grants of land more than ten miles and within twenty miles from the accepted location of the road—were intended to furnish lands in lieu of those only which the United States should have sold within the granted limits—*i. e.*, the ten-mile limits—between the time when the grant was first made and the time when the lands had been withdrawn from market by the General Land Office; and therefore Secretary Schurz informed us that instead of our being entitled to receive any more patents for lands, either in the granted limits or in the indemnity limits, we had already received something like 40,000 acres of land more than the General Land Office considered us entitled to hold; and the Secretary personally informed me that he expected and required us to release to the United States from the lands already patented to us a very large amount of those lands which we had already received. He positively refused to issue to us any more patents for any lands either in the limits of the lands in place, by which I mean the ten-mile limits, or within
365 the limits of the grant of indemnity, by which I mean the the lands outside of ten and inside of twenty miles from the location as withdrawn from the records of the Land Office. We had many interviews with the Secretary of the Interior and the solicitor attached to that Department and the Commissioner of the General Land Office, and we were unable to adjust the matter, Secretary Schurz still insisting that under the terms of the original grant the railroad company had already received a great deal more land than the State of Wisconsin or it, as the donee under section 3, was entitled to receive. This direct refusal, and issue having been made between us and the Interior Department, and we, finding ourselves unable to obtain any lands whatever, *we* applied to the executive department of the State of Wisconsin. I personally had many interviews with Governor Smith in the premises. He declared his

inability as Governor and the inability of the State to do anything to help us excepting this: He offered to appoint me attorney for the State of Wisconsin and give me authority in the name of the State of Wisconsin to take such proceedings as I should deem wise and expedient in any court and before any tribunal or any Department in order to obtain the lands which we had earned to be
366 certified to the State of Wisconsin, in which case he declared he could give us patents. Accordingly I was appointed by Governor Smith attorney for the State of Wisconsin to act in this matter. I went to Washington and made claim upon Secretary Schurz, in the name of the State of Wisconsin, to have the lands which we had earned, which included all the lands covered by this action and a great many more, certified to the State of Wisconsin if the Secretary was unwilling to order patents of the United States to be issued directly to the plaintiff. He refused absolutely to do so, denying the right of the State of Wisconsin to any lands in consequence of what we had done beyond the amount of lands we had already received; and he also declared, as he had done before, that the amount of lands we had already received were greatly in excess of those to which we were entitled. I then consulted with eminent counsel in Washington as to the legal possibility of maint-ing a writ of mandamus against Secretary Schurz to compel him to certify those lists to the State of Wisconsin. I also examined, in consultation with eminent counsel, the various provisions which allowed original suits to be brought in the Supreme Court of the United States by the State of Wisconsin, but we all agreed, and finally
367 Attorney General Devens himself told me, that it was useless to undertake to compel the Secretary to issue those patents or to certify the lists to the State of Wisconsin.

I then endeavored to get Secretary Schurz to refer the question to Attorney General Devens for advice as to what was the quantity of lands this section 3 conferred upon the State of Wisconsin as trustee to convey to us. Secretary Schurz for a long time refused to make such a reference in any case, and he absolutely refused to make any such reference in our particular case. Thus the matter stood for a long time.

During the years of 1877 and 1878 the great land-grant case entitled Madison and Portage Railroad Company *versus* The Treasurer of the State of Wisconsin and others, in which all the different donees of all the grants from the United States of lands in Wisconsin were parties, came to a final argument before the full bench of the United States circuit court for the western district of Wisconsin. The litigation in this suit had been going on ever since December, 1874. The vital question in this case, which was fatal to the plaintiff's claim for lands for building the Madison & Portage railroad, was the determination of the *quantum* of land which passed by the general expression in the land-grant acts, namely, every alternate
368 section of public land designated by odd numbers for ten sections in width on each side of the road. Secretary Schurz held that as *to* the amount of land granted by the grant in place was only the number of acres of land which the United States owned

itself, undisposed of at the date of the grant, the effect of that decision would be, instead of giving as to the amount in place every odd section for ten sections in width—that is to say, 6,400 acres to the mile —to give perhaps not more than five acres for a mile of railroad built. If the United States, for instance, owned at the time when the grant was made by Congress only five acres not previously disposed of, then Secretary Schurz held that the railroad took only five acres for building that mile of road, and if subsequently to the date of the grant the United States sold one of those acres before the lands were withdrawn from market, then under the indemnity grant the railroad would be entitled to receive only one acre in indemnity and no more.

Defendant's counsel moved to strike out the evidence in reference to this case of the Madison and Portage Railroad Company on the ground that it is incompetent immaterial, and irrelevant. Motion overruled.

369 Deponent continuing: The great question, therefore, in the Madison and Portage railroad case at its threshold was, How much land was covered by the granting clause? That case was argued by the most eminent counsel in the State of Wisconsin.

Defendant's counsel objected to any further evidence touching the Madison and Portage railroad case. Objection overruled.

Deponent continuing: Mr. S. U. Pinney, of Madison, contended that Secretary Schurz'- ruling was right. On the other hand, Col. Vilas, Mr. I. C. Sloan, J. C. Spooner, A. Scott Sloan, and myself contended that the rule laid down by Secretary Schurz was wrong. The argument was made in September, 1879. The Court held that question under advisement for a considerable time, and finally Mr. Justice Harlan, on the 28th day of October, 1879, filed an opinion in that Court in which he decided against the ruling of Mr. Secretary Schurz. This decision was the first decision by any United States court directly upon this question, and adversely to what the counsel have always contended were the dicta of Mr. Justice Davis in the Leavenworth, Lawrence and Galveston case, but which Secretary Schurz contended was the opinion of the Court and not the dicta of the justice who read the opinion. When this Madi-
370 son and Portage decision was made I renewed my efforts in the Interior Department to get Secretary Schurz to adopt the rule laid down in that case by Mr. Justice Harlan.

Eighth interrogatory. State what further efforts you made to procure a ruling from the Secretary of the Interior in accordance with the decision of Mr. Justice Harlan.

Objected to as incompetent, immaterial, and irrelevant. Objection overruled.

Answer. Finally, after Justice Harlan had given this decision, I renewed my application, as I have stated, to the Interior Department to reverse the practice established by Mr. Secretary Schurz, which was fatal to the claim either of the State of Wisconsin or the

plaintiff to any more lands; and so many other railroads were interested in the same question that finally Secretary Schurz was induced to refer the question to Attorney General Devens for his action. The case in which Mr. Devens was to give his opinion was in the matter of the right of the State of Minnesota to receive from the United States, under similar acts, for the benefit of the Western railroad, the full quantity of ten sections per mile of public lands along the line of the constructed road. On the 5th of June, 1880, Attorney General Devens gave an opinion to the Hon. Carl Schurz, which is undoubtedly reported in the Opinions of the Attorneys
371 General, in which he advised the Secretary that his practice should be abandoned and the department should recur to the rule and method of administering the railroad grants which had obtained prior to Mr. Schurz's coming into office, in March, 1877. Prior to Attorney General Devens giving that opinion I learned that the question was before him. I at once applied for leave to be heard in behalf of the State of Wisconsin and as its authorized attorney and to argue in the matter of the quantity of land which passed to the State of Wisconsin under the 3d section of our land grant act. In accordance with my request, Attorney General Devens allowed me to submit a printed argument for and in behalf of the State of Wisconsin, a copy of which I now produce.

Plaintiffs' counsel offered the copy in evidence.

Objected to as incompetent, immaterial, and irrelevant; objection overruled. Copy admitted and marked Exhibit "A."

Deponent continuing: This argument of mine brought before Attorney General Devens the Madison and Portage railroad decision of Justice Harlan, and I filed with the Attorney General a certified copy of Justice Harlan's decision, and great stress is laid by the Attorney General in his letter of advice to Secretary
372 Schurz upon the decision of Mr. Justice Harlan in the Madison and Portage railroad case. Secretary Schurz did not accept the opinion of Attorney General Devens in the particular case in which he had called for advice—that is, the Minnesota case—until the 16th day of October, 1880, and then he permitted it to be adopted in that particular case, for he still refused to make any general rule or to allow us to take our patents under section 3d, but left substantially the whole matter of indemnity lands undisposed of when he went out of office. When the new administration came in, in 1881, the new Secretary of the Interior rejected the opinion of Attorney General Devens and refused to permit the Land Office to act in accordance with it; and Secretary Teller, during the whole time of his administration, has insisted upon the same rule which Secretary Schurz had adopted prior to the 16th day of October, 1880. In other words, he refused to issue patents to us either in indemnity limits or in granted limits. The whole question of the quantum of grant which is discussed by Justice Harlan and by Attorney General Devens in the opinion I have just referred to was again argued by me very elaborately, in conjunction

with the counsel of the Atchison, Topeka and Santa Fé Rail-
373 road Company, in a case arising under their grant, and a very full and complete printed brief was filed with Secretary Teller at that time. This last argument was held in the early summer of 1883, but Secretary Teller still refused to act in our application and still refused patents to us and refuses to decide the question of the right of the State of Wisconsin as well as our right to any patents.

When I first discovered that the defendant in this case had undertaken, without any notice to us, to assess taxes upon these lands, a fact which was entirely unknown to me or to any of our Land Department officials until a comparatively few months ago, I again went to Washington and urgently pressed the Secretary to issue patents to us and to settle the question finally; but he absolutely refused to take up the matter either in regard to grant in place or grant in indemnity, and he asserted the right of Congress to forfeit our entire grant because the Wisconsin Central railroad had not been entirely finished prior to the 31st day of December, 1876; and, inasmuch as bills were pending and had been pending in Congress for the last session or two to forfeit the grant of the Wisconsin Central railroad, as well as many other land grant roads, he abso-
374 lutely declined until Congress should have settled this matter of forfeiture to take any action whatever in regard to our application. He would neither approve lists of lands nor give any ruling, but simply left the matter undecided, and we couldn't compel him to act or the General Land Office to act. The excuse he gave was nominally that the matter could not be taken up yet. We have continued our efforts at Washington and employed counsel, and I have personally given great attention and taken great trouble in this matter, but have as yet failed altogether to induce the Interior Department to perform what I believe to be its duty, under our land grant act, acting in the name and behalf of the State of Wisconsin as its authorized attorney.

Finding that it was impossible to get any action under the course of procedure which had hitherto been adopted by the State of Wisconsin and ourselves in reference to the patenting of lands to us under the grant, we made a desperate appeal to Governor Rusk to give us a patent from the State, although the United States had not given us any patent. Previous to this time the State of Wisconsin had always refused to give us any patents for lands which had not been previously patented to us by the United States. The
375 patent from Governor Rusk was obtained only after long and repeated arguments, in which I was assisted by eminent counsel, and finally the reason on which they were given to us was, as the Governor expressed it, the manifest injustice of allowing parties to go in under the color of tax title, when we had no legal status to interfere with them, and permitting them to strip the lands of their timber, simply because we had no standing in court to turn them out.

That is the general history of our efforts to obtain patents for our lands.

Ninth interrogatory. Have you the commission that was issued

to you by the Governor which you have mentioned in your testimony with you?

Answer. I have not that commission now with me. I have a formal appointment as attorney for the State of Wisconsin, signed by Governor Smith and issued under the great seal of the State of Wisconsin, which I used at Washington before the Secretary of the Interior and the Attorney General, but I either left it on file in the Interior Department, at Washington, or else I have mislaid it among my papers in our recent removal of offices. I will endeavor to find it and give it to you to produce in this action, if it is in my possession.

Plaintiff rests.

Cross-examination by Mr. HAND:

376 First cross-interrogatory. Have you ever made any application for patents for lands described in the complaint in this action?

Answer. Yes.

Second cross-interrogatory. When?

Answer. I cannot give the dates. My dealing was not with a particular lot of lands; it was with all the lands which we conceived ourselves to have earned by building the road. The details of the description, &c., I leave to the special land department.

Third cross-interrogatory. Did you ever make any written application for these lands?

Answer. Application was made by my direction by filing our lists for Secretary's approval. The matters which I attend to are the general matters, and no question of mere application for specific sections has had my particular attention. The Secretary of the Interior and the Governor of the State and the General Land Office, at Washington, have been, so far as I have been personally connected, applied to for all the lands we believed ourselves to have earned by building the road. The descriptive lists and formal applications I have not the details of myself, because they are attended to by the land commissioner and the clerks in our land office.

Fourth cross-interrogatory. Were the applications that were made for patents made in writing?

377 Answer. Yes; I am so informed and believe. There are lists and applications to-day on file in the Interior Department for our lands, at Washington. Those are the lists which the Secretary of the Interior has steadfastly refused to approve, or rather to act upon, and which are the proper basis for the issue of any patents by the State or the United States to us.

Fifth cross-interrogatory. No patents, then, could be issued without there being a written application on file?

—. That is a matter of law, which I am not called upon to decide.

Sixth cross-interrogatory. Has it been the custom in applying for patents to make application for patents upon written lists?

Answer. Certainly.

Defendant's counsel moved to strike out all the evidence on application for patents on the ground that verbal evidence for such applications is incompetent. Motion overruled.

Seventh cross-interrogatory. You have stated in your direct examination that a certain part of railroad in Price county was incompleted December 31, 1876. Are you positive that it was in Price county?

378 Answer. To the best of my information and belief it is in Price county.

Eighth cross-interrogatory. Is it not a fact that it is between Butternut and Glidden?

Answer. Well, I am not sufficiently conversant with the situation and the lines to state positively. I had the impression that it was in Price county.

Ninth cross-interrogatory. There is a record of that, is there not—records showing when these section miles were completed, are there not?

Answer. I don't know. I think that is a matter which largely rests in the personal recollection of parties who were building the road, as to the time when particular portions of it were exactly finished. Still I have never kept any records myself of such portions with dates.

Tenth cross-interrogatory. You don't know, then, just what part of the road was uncompleted?

Answer. I know generally where it was, from my general knowledge of the property.

379 Eleventh cross-interrogatory. You don't know specifically?

Answer. I cannot fix it within particular lines. I have no doubt it can be fixed by those who have the knowledge.

Twelfth cross-interrogatory. Did the Secretary of the Interior refuse to issue patents upon lands lying contiguous to the portion of the road completed up to December 31, 1876?

Answer. He did, and does to-day; and he asserts the right of Congress to forfeit all those lands in grant as well as in place, and refuses to act at all until Congress has taken action.

Thirteenth cross-interrogatory. Is there any regular evidence at all?

—. Not to my knowledge, further than appears in the general records of the Department. These applications of which I speak are the personal applications that are made by parties who come to him and urge him to order patents to issue on our lists, but which he declines to order. He does not act like a corporation; he is an executive officer, doing his work personally, not by vote and records, very largely.

Fourteenth cross-interrogatory. Has he filed any written opinions with reference to these points?

Answer. The present Secretary I am not aware has filed any in our case. Secretary Schurz, on the 16th of October, 1880, wrote a

380 letter to the Commissioner of the General Land Office based upon the opinion of Attorney General Devens, dated June 5th, 1880. That letter is printed in the Washington Law Reporter,

volume 8, No. 43, page 679, published at Washington on October, 25, 1880. The Washington Law Reporter is, by order of the supreme court of the District of Columbia, the paper in which all legal notices have to be published.

Fifteenth cross-interrogatory. And also opinions of the Secretary of the Interior?

Answer. As a matter of fact they are published and gotten up chiefly for the use of the departments. I have the opinion in that shape.

Sixteenth cross-interrogatory. Whose opinion is that?

Answer. The letter of instructions of October 16th, 1880, by Secretary Schurz to the Commissioner of the General Land Office. Possibly that may have been in the last volume of Copp's Land Laws. When the opinions accumulate sufficiently to make another volume they are generally printed in that series of land laws.

Seventeenth cross-interrogatory. Well, then, the official opinions of the Secretary and of the Attorney General are a matter of record, are they?

Answer. They doubtless are matter of record in their separate departments, and I have referred you to them. The opinions of the
381 Attorneys General are published in volumes for the use of the Government of the United States and are obtainable like any other law book or book of reports.

Defendant's counsel moved to strike out all the deponent's evidence in this deposition with reference to the opinions and rulings of the Attorney General and Secretary of the Interior upon the plaintiff's application for patents on the ground that such evidence, being verbal, is incompetent, immaterial, and irrelevant.

Eighteenth cross-interrogatory. I understood you to say that the new Secretary, Secretary Teller, adopted Attorney General Devens' opinion.

Answer. You misunderstood me entirely. Secretary Teller rejects it. Secretary Schurz, in the letter that I have referred to of date of October 16th, 1880, permitted that case to be decided in accordance with it, so far as he states in that letter of October 16th, 1880, but he refused to apply the principles of Attorney General Devens' opinion to other cases then pending and left the matter for his successor. His successor rejected Attorney General Devens' opinion altogether, and stands to-day upon the doctrine laid down in the opinion and words of Mr. Justice Davis in the Leavenworth, Lawrence and Galveston case, sometimes called the Osage land-grant case, which involved the disposition of the lands granted to the Osage Indians.

Nineteenth cross-interrogatory. Has the company ever ob-
382 tained any patents from the General Government upon the lands described in the complaint in this action?

Answer. I am unable to state from personal knowledge, because all those matters are matters of detail in the Land Department. As to particular sections, whether we have patents for particular sections, I cannot tell without examining the Land Department. My

impression is, though, that all these lands covered in this case, to the best of my information and belief, are lands, with the exception of, perhaps, about five sections, which come within the indemnity limits, and as to those indemnity limits and the limits in place I presume they are now covered by the patent from the State of Wisconsin.

Twentieth cross-interrogatory. You state that the company went to the Governor to obtain patents on failing to get them from the General Government. Were patents then issued upon these lands involved in this action by the State?

Answer. Governor Rusk considered that we were subjected to grievous injustice, having these lands stripped by parties under color of tax title from Price county and other municipalities along the line, and he took the responsibility of issuing to us patent
383 upon lands in advance of their being patented to us by the United States in order that we might have a standing in the courts and come in and protect ourselves.

Twenty-first cross-interrogatory. Were those patents of these lands in this complaint?

Answer. I cannot state from positive knowledge; but my impression is that those lands are covered by the patent which Governor Rusk gave. The patent itself will show. If you object to anything not in writing the comparison of that patent will show. I don't pretend to be familiar with five or six hundred thousand acres of land.

Twenty-second cross-interrogatory. What I wish to get at is that the lands in this complaint are the ones on which you obtained patents from the State.

Answer. Well, I suggest that you compare these lands with the patent itself.

Twenty-third cross-interrogatory. The question is whether you got the lands from the State because you could not get the patent from the General Government on them.

Objected to as incompetent, irrelevant, and immaterial. Objection overruled.

Answer. We got the patent from the State in order to have some legal standing in court and to protect ourselves and because
384 we had not any from the General Government. If we had had patent from the General Government in accordance with the former action of the State, the State would have given us a patent. It was the first time they gave us a patent without previously requiring us to have a patent from the United States. We were in a perilous condition. The United States refused to patent these lands to us, and we had no standing in court to prevent parties who came in under color of a pretended tax deed from Price county and others, and were unable to prevent them from stripping the land of the timber, which is its only value. We were obliged to stand by without interfering unless the State gave us a patent. The grant was killed, its value entirely destroyed, and we could not otherwise save it from waste by trespassers under color of title.

Twenty-fourth cross-interrogatory. When did you last apply in person to the Secretary of the Interior for a ruling in regard to these lands?

Answer. I cannot fix the date exactly, but my recollection is that it was at the date of our last argument on the quantum of land.

Twenty-fifth cross-interrogatory. When was that?

Answer. About May or June, 1883. The date will be fixed exactly by the date of the patent from the State. I went directly
385 to Madison from Washington. It was shortly after Secretary Teller's refusal to do anything for us whatever and his refusal to order the Commissioner of the General Land Office to take the case up or send our lists on the same for his approval or to do anything that I went to Governor Rusk and applied to him, and within two or three weeks Governor Rusk finally consented to issue the patents from the State to us. My last interview with — Secretary on this topic was shortly before the date of that patent from the State to us.

Twenty-sixth cross-interrogatory. No application, then, has been made since that time for a patent?

Answer. Our application is a continuous one, and our lists are lying now in the General Land Office, at Washington, and waiting for the approval of the Secretary of the Interior. Our attorney is ready to press the matter whenever there is a chance. We can do nothing more after the peremptory and absolute refusal that was given us by Secretary Teller to take up the matter, notwithstanding three or four Senators of the United States went with us. Senator Sawyer must have gone with me half a dozen times to see the Commissioner of the General Land Office and Secretary Teller to
386 induce him to take some action, and at least to give us patents for some portion of the lands where we found out that these tax titles had been issued behind our backs; but, notwithstanding the personal application and political pressure that could be brought to bear upon the Secretary, he refused absolutely to permit the lists even to be brought before him for his approval, and the lists are lying in the General Land Office awaiting attention now.

Defendant's counsel moved to strike out all the evidence relating to application for patents from the General Government contained in this deposition on the ground that it is incompetent, immaterial, and irrelevant. Motion overruled.

Defendant rests.

Adjourned until Tuesday, January 6, at 10 o'clock a. m.

COMMISSIONER'S OFFICE,
TUESDAY, *January* 6, 1885—10 a. m.

The plaintiff appeared, by its said attorney; no appearance by defendants.

Deposition read over and signed by witness.

EDWIN H. ABBOT.

387 EXHIBIT 1. Hugh Ryan, Court Commissioner, Mil. Co., Wis. Jan. 3, '85.

Argument of Edwin H. Abbot, Attorney for the State of Wisconsin.

In the matter of the quantity of land which passes to the grantees from the United States under such acts of Congress as those of March 3, 1857, and March 3, 1865, to the State of Minnesota.

388 In the matter of the quantity of land which passes to the grantees from the United States under such acts of Congress as those of March 3, 1857, and March 3, 1865, to the State of Minnesota.

To the Honorable Charles Devens, Attorney General of the United States.

SIR: Having learned that you now have under advisement the question as to what amount of land the United States intended that the State of Minnesota should receive under the acts of March 3, 1857, and March 3, 1865, whether by virtue of the original words of grant or by virtue of the indemnity provision, I beg leave, as the attorney for the State of Wisconsin, to submit in behalf of that State, which is interested in the same question under the acts of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved June 3, 1856, and May 5, 1864 (11 U. S. Statutes, 20, and 13 U. S. Statutes, 66), the following suggestions:

First. This precise question arose in the case of the Madison and Portage Railroad Company *vs.* Treasurer of State of Wisconsin and Railroad Companies, in the circuit court of the United States for the western district of Wisconsin. The case involved the division of these grants among seven claimants, and its magnitude and the importance of the question involved induced the full bench
389 of that circuit, Mr. Justice Harlan, Circuit Judge Drummond, and District Judge Bunn, to meet the counsel in Boston last September and hear arguments, which occupied ten days. The quantity of lands which the State had for division was the first point to be ascertained, and as the acts themselves vested in Wisconsin an estate by words of grant, *in præsenti*, the quantity of land which so passed to the State depended upon the effect of the granting words and the indemnity provision construed together. The new practice of the Interior Department, based upon the dicta in the Leavenworth, Lawrence and Galveston case, was vigorously contended for by one of the respondents, while the other parties argued in support of the interpretation which had been given by the department to such grants during the twenty previous years. The question was most elaborately presented in all its aspects, and the court unanimously decided in favor of the old practice and against the lately adopted rule of Mr. Secretary Schurz. Mr. Justice Harlan delivered the judgment of the court in the following words:

"Some question has been made as to the precise extent of the

grant under the two acts of Congress. We understand that it covers six sections in width on each side of the line, in the one case, and ten sections, in the other, of lands in place as they existed on the ground, so that if any of these sections were fractional or, from any cause, were not full sections, the State could not make up the deficiency from lands in the indemnity limits, because as to the lands in place the act operates directly by specific description; but when there was not land in place to meet the call of the grants, whether the deficiency was more or less, it was competent to supply it by sections from the indemnity limits; or if, as might happen, there were parts of sections of the lands in place excluded from the grants by the terms of the acts, it was competent to supply the deficiency from
the indemnity limits by a similar legal subdivision of the
390 land. It would seem to be impracticable to administer the
trust on any other basis. In supplying deficiencies it must be by sections, whether full or fractional, and by legal subdivisions. Deficiencies in place limits caused by sales or pre-emptions previous to the location of routes, whether before or after the passage of the acts, may be supplied from the indemnity limits."

I transmit herewith a certified copy of the full opinion of Mr. Justice Harlan. The words above quoted, however, are all which apply to the present question.

The last clause was added in manuscript after it had been printed; and I am informed by one of the judges that this addition was made in order to prevent any possible inference of ambiguity from the previous expressions of the court on this point, and to show that the dicta of Mr. Justice Davis, on which the Interior Department had relied, were not accepted by the court as law in this case.

This decision is entitled to peculiar consideration from the circumstances under which it was made and the unusual composition of the court which rendered it. The cause was deemed so important that two of the judges consented to travel some twelve hundred miles in order to hear it and take part in its decision; and, when that decision was reached, it was the concurrent judgment of the whole court, not the opinion of a single judge or even of the learned presiding justice alone. It is one of the very rare cases where a full bench of a United States circuit court has sat *in banc.*

Second. The old rule was adopted in construing the first land grant to Illinois under act of September 20, 1850.

Attorney General Crittenden, March 10, 1852, 5 Opin. Att'y Gen., 518.

It was followed during a period of twenty years in admin-
391 istering not less than fifty grants made by the United States
in aid of internal improvements. They were uniformly regarded and executed by the Land Office as grants of quantity—*i. e.*, grants which entitled the donee to receive out of the limits in place or indemnity the equivalent of x x 640 acres per mile of railroad build. Thus, "six sections" meant 3,840 acres and "ten sections" meant 6,400 acres to the mile, if the sections actually in the place limits were full, not fractional sections. All parties acted upon this

understanding. It was assumed by the attorney generals in their opinions, Congress in its acts, the Departments in their rulings, and by the State courts in their decisions to be the meaning of these grants, and this construction became a rule of title in real property, upon faith in which millions of dollars have been expended in railroad construction.

Attorney General Crittenden, August 7, 1853, 5 Opin. Att'y Gen., 603.

Letter of Secretary Thompson, Nov. 7, 1857, 1 Lester Land Laws, p. 526, No. 558.

Attorney General Black, June 3, 1859, 9 Opin. Att'y Gen., 346.

Veeder *v.* Guppy, 3 Wis., 502.

Secretary Delano, Nov. 15, 1871, Copp's Land Laws, p. 382, No. 402.

Many other citations might be given of similar recognition of this practice of the Land Office, but it is needless, for the universality of the practice is notorious. It comes fully within the rule which the Supreme Court has laid down in the case of United States *v.* Burlington and Missouri R. R. Co., in reference to a practical construction of much shorter duration, which the Supreme Court regarded as conclusive in the interpretation of the Pacific railroad acts.

392 "It was the intention of Congress, both in the original and amendatory acts, to place the Union Pacific Company and all its branch companies upon the same footing as to land, privileges, and duties, to the extent of their respective roads, except when it was otherwise specially stated. Such has been the uniform construction given to the acts by all departments of the Government. Patents have been issued, bonds given, mortgages executed, and legislation had upon this construction. This uniform action is as potential and as conclusive of the soundness of the construction as if it had been declared by judicial decision. It cannot at this day be called in question."

U. S. *vs.* Burlington & Miss. R. R. Co., 98 U. S., 334, 341.

Third. Congress in its legislation *in pari materia* has given its legislative construction of these grants to the same effect. The instances might be multiplied, but one is sufficient to illustrate the character of this legislative declaration or, rather, assumption of an undisputed construction.

Congress granted, in the same terms as to Wisconsin, certain lands to Iowa by act of May 16, 1856, and then amended and construed the grant in the act of June 2, 1864, by words in the second section, which are an unmistakable legislative declaration that the original grant was one of quantity according to our contention and the old rule of the Land Office. The terms of the first grant of September 20, 1850, to Illinois contain a legislative explanation of the quantity of land which it was intended the grantee should receive, and that explanation may well be taken to run with all similar grants.

It cannot be doubted that Congress did not intend to favor one

State in its grants and discriminate against other States. It presumably intended to treat all the States alike in the distri-
393 bution of the public domain in aid of public improvements. Having once declared in the grant to Illinois that certain phrases gave lands "equal in quantity to one-half of six sections in width on each side of said road and branches," the subsequent use by Congress of the substantially similar language in other acts may reasonably be taken in the same broad sense.

Fourth. In 1864 and 1865 the land grants, made originally in aid of railroads for 6 miles in place and 9 miles in indemnity, were most of them enlarged to 10 miles in place and 20 miles in indemnity. If the indemnity was created merely to supply the deficiency in land arising from sales by the United States out of the six miles limits after the date of the grant, why were the indemnity limits made fifty per cent. larger than the entire limits in place, and why were they afterwards increased?

Fifth. I respectfully submit that the land grant acts are laws which declare the intention of Congress to give to the donee, first, the actual land which the United States owned in "every alternate section" at the date of the grant as it then lay on the ground, and, second, a right to receive an additional quantity of land in the indemnity limits (unless sooner exhausted) sufficient to supply the deficiency in each such section as it lay on the ground if the United States had ever "sold, reserved, or otherwise disposed of" anything out of that section.

These acts cannot be separated into parts like a deed and one portion be taken alone by itself as a "granting clause," another as a covenant, and the like. These acts are laws as well as grants, and the intention of Congress is only to be declared and effectuated by comparison of all the parts and construing all together as one law.

Sixth. The absolute uncertainty and confusion which would arise, practically, upon the theory of the new rule would defeat the pur-
pose of the acts, which on their face is avowed to be "to aid
394 in the construction" of public works, and is judicially held to be their paramount object. This declared purpose the Supreme Court has held to throw the clearest light on the intent of these acts and to be sufficient reason for rejecting any construction which would defeat that purpose.

Platt *v.* Union Pacific Railroad, 99 U. S., 48.

I venture to submit these suggestions chiefly to lay before the Department of Justice the unreported decision of Mr. Justice Harlan. I ask the indulgence of the Honorable Attorney General for their exceeding incompleteness, as he is aware of the peculiar circumstances of pressure and haste under which their preparation is forced, and subscribe myself,

With great respect, your obedient servant,

EDWIN H. ABBOT,
Attorney for the State of Wisconsin.

395 Ex. K.

Findings.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff,
against
PRICE COUNTY, COUNTY THE CLERK, and COUNTY TREASURER OF PRICE COUNTY, Defendants.
} Suit No. 6.

This action was tried on the 28th and 29th days of January, A. D. 1885, before the Hon. Charles M. Webb, circuit judge, sitting at Phillips, Wisconsin, and upon the evidence offered and given in behalf of the plaintiff and defendants, the court having heard the arguments of counsel for the respective parties in the case, the following facts and conclusions of law were found by the court:

Facts Found.

First. That all of the lands described in the plaintiff's complaint are wild, unoccupied, and unimproved, and are situated in the town of Worcester, county of Price, and State of Wisconsin, and are a portion of the lands granted to the State of Wisconsin by the 3rd section of the act of May 5th, 1864, hereinafter referred to, for the purpose of aiding in the construction of what is now the Wisconsin Central railroad.

Second. That eleven (11) "forties" of the land described in
396 the plaintiff's complaint are situated within the indemnity limits of said grant, and are all located in the sections designated by odd numbers.

Third. That all of said lands were assessed in said town of Worcester in 1883 and put into the tax roll, and the amount of tax carried out against each respective piece as set forth in the plaintiff's complaint, but said lands were not assessed to the plaintiff nor to any one else, nor to "unknown," and none of the real estate included in the assessment roll for that year was assessed to the owners thereof; that a warrant was attached to said tax roll, and the roll, with said warrant attached, placed in the hands of the town treasurer of said town of Worcester for collection; that the taxes levied and assessed on said land were unpaid, and the town treasurer of the said town of Worcester returned the same to the county treasurer of Price county as delinquent, as set forth in the plaintiff's complaint.

Fourth. That the plaintiff received a patent from the State of Wisconsin, bearing date February 25th, 1884, whereby the State conveyed to it all of the lands described in the plaintiff's complaint, which patent is by our statute made presumptive evidence of the facts therein stated, and that the grantee named therein be-
397 came vested thereby at the date thereof without absolute title in fee to the lands therein described; that, according to the true intent and meaning of said act of Congress of May 5th, 1864, entitled "An act granting lands to aid in the construction of certain

railroads in the State of Wisconsin," and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated by said third section in accordance with the terms of said act of Congress and of the acts of the Legislature aforesaid; and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a "float."

Fifth. That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of
398 said road until it received patents therefor, as the Commissioner of the General Land Office and the Secretary of the Interior Department of the United States had jurisdiction and a supervising control over the matter and might approve or reject the selections made by the plaintiff and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869, the time when the grant was withdrawn from the market by the General Land Office; that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was determined by the Secretary of the Interior and was in dispute between the State and the United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof; that the General Land Office of the United States had exclusive control in the first instance and the
399 sole power of determining how much and what lands the plaintiff was entitled to receive under said act of Congress and to decide all conflicting claims thereto; that the plaintiff did not in any manner delay the issuing of patents to it, but, on the contrary, was diligent and persistent in its efforts to procure said patents from the time when its railroad was finished down to the time when said patents were issued; that the delay in their issue — caused entirely by the acts of the Government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department.

Sixth. That the lands described in the plaintiff's complaint in this action had, at the time the taxes were levied and assessed thereon,

in 1883, been selected as lands to which said land grant applied; but said selections had not been approved by the Secretary of the Interior, and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents. On the contrary, the Secretary of the Interior refused to recognize the right of the State of Wisconsin to said lands or to approve the selections so made.

400 Seventh. That all the material allegations in the plaintiff's complaint are true.

Conclusions of Law.

As conclusions of law from the foregoing I find—

First. That it was not the intent and meaning of said act of Congress of May 5th, 1864, that so long as the lands therein mentioned were held in trust by the United States or the State of Wisconsin and the trust thereby created remained unexecuted and the lands thereby granted had not been identified and set apart and the grant applied thereto said lands should be subject to taxation; but that when the lands in question had been earned by the plaintiff by the completion of its road and had been patented to it, then they thereby became relieved of the trust and burden implied in the grant. Prior to that the company had no right to dispose of the lands, but thereafter the company would hold them under the patents with the same right of absolute disposition as lands held by individuals under patents by purchase from General Government; that after this had been done the title and ownership of the lands thereby passed not only beyond the control of the United States, but also beyond the control of the State, and the lands became, like other

401 private property, subject to such burdens of government as the State, subject to constitutional limitations, might in its wisdom and discretion impose upon them; that lands sold by the United States may be taxed before the patent is issued where the lands are identified and the right to a patent is complete and the equitable title is fully vested in the party without any further act remaining to be done, either by said party or by the General Government or by the State, provided the right of said party to a patent is not denied; but in the present case the General Government had a further duty to perform in respect to these lands at the time these taxes were levied and assessed, and the right of the State and the plaintiff to these lands was substantially denied, since it was not conceded or admitted by the Secretary of the Interior. The patents introduced in evidence on the part of the plaintiff are evidence that the lands therein described had then been earned by the plaintiff, and are *prima facie* evidence that the plaintiff thereby received a title to said lands in fee; that up to the date of said patents the legal title was either in the United States or the State of Wisconsin, and the patents being dated February 25th, 1884, rebuts any presumption that the lands were, prior to that time, subject to taxation,

402 and the burden of proving that the lands were subject to taxation at the time when the taxes were levied and assessed

thereon rests upon the defendants; that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiff; that while these lands had been in truth earned by the plaintiff before the lands were assessed for taxation, yet they were withheld from the plaintiff by the refusal of the Interior Department to determine conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon. The fact of the completion of the road some time before the patents issued to the plaintiff is not evidence of any fraudulent practice to prevent the issuance of the patent for the purpose of avoiding taxation, and, on the other hand, the proofs are positive and uncontradicted that both State and plaintiff persistently tried to procure such issue.

Second. That under the land-grant act of May 5th, 1864, said grant was a "float," and did not attach to any particular lands until the route of the road had been definitely fixed and the lands had
403 been selected and the selections had also been duly approved by the Secretary of the Interior; that as long as the claims of the plaintiff to these lands was not admitted and recognized, and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by said officers against the will and request of the plaintiff, the lands were not subject to taxation by the State.

Third. That under the Constitution and laws of the United States as well as under the constitution and laws of the State of Wisconsin the lands described in the plaintiff's complaint were not subject to taxation in the year 1883; that the taxes levied and assessed thereon and the return thereof as delinquent by the town treasurer of the town of Worcester were and are illegal and void, and should be set aside, for the reason that said lands were both by the Constitution and laws of the United States as well as of the State of Wisconsin exempt from taxation in 1883, at the time said taxes were levied and assessed thereon.

Fourth. That under the provisions of said act of Congress of May 5th, 1864, the assessment and return of said lands for taxation was illegal and void, and the said tax is a cloud upon the plain-
404 tiff's title, and the plaintiff is entitled to prevail in this action and to the relief prayed for in this complaint.

By the court:

(Signed) CHAS. M. WEBB, *Judge.*

Exceptions to Findings.

Circuit Court, Price County.

WISCONSIN CENTRAL RAILROAD COMPANY, Pl'ff,
ag'st
PRICE COUNTY, THE COUNTY CLERK, and COUNTY TREASURER OF PRICE COUNTY, Def'ts.

And now comes the defendants, by their attorneys, Willis Hand, M. Barry, and A. R. Mead, and except to the court's findings of fact and conclusions of law in the above-entitled case as follows:

Exceptions to Findings of Fact.

1. The defendants except to the following language contained in the first finding of fact, viz: "All of the lands" * * * "are wild, unoccupied, and unimproved."

2. The defendants except to the fourth finding of fact and to each part thereof as being against the evidence. Defendants
405 except particularly to the following language contained therein, viz: "Whereby the State conveyed to it all the lands described in the plaintiff's complaint," * * * "and that the grantee named therein became vested thereby at the date thereof with absolute title in fee to the lands therein described; that according to the true intent and meaning of said act of Congress of May 5th, 1864," * * * "and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands" * * * "until it should receive patents therefor;" also "and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a 'float.'"

3. The defendants except to the following language contained in the 5th finding of fact, viz: "That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner of the General Land Office and the Secretary of the Interior" * * * "might approve or reject the selections made
406 by the plaintiff and might allow conflicting claims to said lands; that more than one-half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the General Government before and after May 5th, 1864, the date of the original grant, and before September, 1869; also that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary of the Interior, and was in dispute between the State and the United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor

were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States Government in consequence thereof, and the General Land Office of the United States had exclusive control in the first instance and the sole power of determining how much and what lands the plaintiff was entitled to receive under said act of Congress and to decide all conflicting claims thereto;" * * * "that the plaintiff" * * * "was diligent and persistent in its efforts to procure said patents;" * * * "that the delay in their issue was caused entirely by the acts
407 of the Government of the United States and the General Land Office against the protest of both the plaintiff and the State of Wisconsin, and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department."

4. Defendants except to the following language contained in the 6th finding of fact, viz: "But said selections had not been approved by the Secretary of the Interior, and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents."

5. The defendants except to the 7th finding of fact and to the whole and each part thereof.

Exceptions to Conclusions of Law.

1. Defendants except to the following language contained in the court's first conclusion of law, commencing at the 24th line, viz: "Or by the General Government or by the State, provided the right of said party to a patent is not denied;" also 36th line: "And the patents being dated February 25th, 1884, rebuts any presumption that the lands were prior to that time subject to taxation;" * * * "that the evidence offered by the defendants failed to overcome the *prima facie* evidence of the plaintiffs"—*i. e.*, the pat-
408 ents; also line 43: "Yet they were withheld from the plaintiff by the refusal of the Interior Department to determine conflicting claims thereto, and the plaintiff could not exercise control over them until it should be determined whether the plaintiff was entitled to receive patents for them as part of the lands of said grant. In the meantime no rule of law or equity would require the plaintiff to pay taxes thereon;" also line 53: "And, on the other hand, the proofs are positive and uncontradicted that both State and plaintiff tried to procure such issue," as not sustained by the evidence.

2. Defendants except to the following language in the court's second conclusion of law, third line: "And the lands had been selected and the selections had also been duly approved by the Secretary of the Interior; that as long as the claims of the plaintiff to these lands was not admitted and recognized, and, much more, as long as it was denied and disputed by the proper officers of the Government of the United States, and as long as patents were consequently withheld by said officers against the will and request of

the plaintiff, the lands were not subject to taxation by the State," as not sustained by the evidence.

409 3. The defendants except to the third conclusion of law and to each part thereof as not sustained by the evidence.

4. The defendants except to the fourth conclusion of law and to each part thereof as not sustained by the evidence.

Dated Feb'y 19, 1885.

WILLIS HAND, M. BARRY, & A. R. MEAD,
Def'ts' Att'ys.

Signed by the defendants' attorneys May 4th, 1885.

WILLIS HAND, M. BARRY, AND A. R. MEAD,
Def'ts' Att'ys.

Signed and settled by the judge of said court this 29th day of June, 1885.

CHAS. M. WEBB,
Circuit Judge.

I hereby certify that the annexed and foregoing bill of exceptions, signed and settled this 29th day of June, 1885, in the case of Wisconsin Central Railroad Company *vs.* Price County *et al.*, contains all of the evidence offered and received or offered and rejected in said case at the trial thereof.

CHAS. M. WEBB, *Judge.*

410 (Endorsements.)

MILWAUKEE COUNTY, *ss:*

Frank Krehla, being duly sworn, says that at the city of Milwaukee, in said county, & on the 18th day of May, 1885, he served the annexed proposed bill of exceptions on Edwin H. Abbott, the pl'ff's attorney, by delivering to & leaving with Howard Morris, the person & clerk in charge of the law office of said Edwin H. Abbott, a true copy thereof. Deponent further says that he knows the person so served as aforesaid to be the plaintiff's attorney therein mentioned, and that said Howard Morris had charge of his said office at the time said service was made as aforesaid, and that said Edwin H. Abbott, the pl'ff's att'y, was absent therefrom and could not be found.

FRANK KREHLA.

Sworn to before me May 18th, 1885.

CHAS. E. WILD,
Notary Public, Wisconsin.

Circuit court, Price county. W. C. R. R. Co., pl'ff, ag'st Price Co. *et al.*, defendants. Exceptions to findings of fact & conclusions of law. Case No. 6. Copy. State of Wisconsin. Circuit court, Price county. Filed February 24, 1885. N. F. Norlin, clerk. Mead, Hand & Barry, def'ts' att'ys. Proposed bill of exceptions. Original.

Personal service of the within proposed bill of exceptions, together with a certified copy in long hand of the reporter's minutes in said action, admitted this — day of May, 1885. Pl'ff's attorneys. Willis Hand, M. Barry, & A. R. Mead, def'ts' att'ys. State of Wisconsin. Circuit court, Price county. Filed July 9th, 1885. N. F. Norlin, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

411 WIS. CENT. R. R. CO. *vs.* PRICE COUNTY *et al.*

"F." DEPARTMENT OF THE INTERIOR, F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1885. W. J. D.

I, N. C. McFarlane, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 18 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original, and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLANE,
Commissioner of the General Land Office.

Filed Jan'y 29, '85. N. F. Norlin, clerk cir. c't.
Filed July 17, '85. Clarence Kellogg, cl'k sup. c't.

412 STATE OF WISCONSIN:

U. S. LAND OFFICE AT EAU CLAIRE, *June 1st*, 1878.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the road of said company, being for the 7th section of the portion of the road from Stevens' Point to Bayfield, commencing in lot seven (7), section nineteen (19), township thirty-nine (39) north, of range one (1) east, and ending in the northwest quarter of the southeast quarter of section twenty-two (22), township forty-three (43) north, of range two (2) west, the selections being particularly described as follows:

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
1	N e ¼	1	39	1 e	25.04	
2	S w ¼	1	"	"	160	
3	N w ¼ of s e ¼	1	"	"	40	
4	S e ¼ of s e ¼	1	"	"	40	
5	S e ¼ of s e ¼	3	"	"	40	
6	W ½	5	"	"	281.52	
7	N e ¼	7	"	"	160	
8	Lots 1, 2, 3, 4, 5, 6, 7	7	"	"	515.05	
9	8, 9, 10, 13, 14, & 15					
10	N ½	11	"	"	320	
11	E ½ of s w ¼	11	"	"	80	
12	N e ¼ of s e ¼	11	"	"	40	
13	W ½ of s e ¼	11	"	"	80	
14	N w ¼ of n e ¼	13	"	"	40	
15	S ½ of n e ¼	13	"	"	80	
16	E ½ of n w ¼	13	"	"	80	
17	N w ¼ of n w ¼	13	"	"	40	
18	N e ¼ of s e ¼	13	"	"	40	
19	S e ¼ of n e ¼	15	"	"	40	
20	N e ¼ of s w ¼	15	"	"	40	
21	W ½ of n w ¼	17	"	"	80	
22	W ½ of s w ¼	17	"	"	80	
23	N w ¼ of n e ¼	19	"	"	40	
24	S w ¼ of s w ¼	1	40	1 e	40	
25	S ½ of n w ¼	3	"	"	80	
26	S ½	3	"	"	320	
27	All	5	"	"	636.92	
28	N w ¼ of n e ¼	9	"	"	40	
29	N ½ of n w ¼	9	"	"	80	
30	S w ¼ of s w ¼	9	"	"	40	
31	All	11	"	"	640	
32	N e ¼ of n w ¼	13	"	"	40	
33	W ½ of n w ¼	13	"	"	80	
34	414 Am'ts brought for'd				4,338.53	
35	N w ¼ of n e ¼	17	40	1 e	40	
36	W ½ of n w ¼	17	"	"	80	
37	N w ¼ of s w ¼	17	"	"	40	
38	Lots 3, 4, 5, 6, 7	19	"	"	423.12	
39	8, 13, 14, 15, 16, 17, & 18					

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
40	S e ¼ of n e ¼	21	40	1 e	40	
41	N w ¼ of N w ¼	21	"	"	40	
42	S ½	21	"	"	320	
43	S w ¼ of n w ¼	23	"	"	40	
44	W ½ of s w ¼	23	"	"	80	
45	S e ¼ of s w ¼	23	"	"	40	
46	E ½ of s e ¼	25	"	"	80	
47	N e ¼	27	"	"	160	
48	E ½ of n w ¼	27	"	"	80	
49	N w ¼ of n w ¼	27	"	"	40	
50	E ½	29	"	"	320	
51	E ½	31	"	"	320	
52	Lots 1, 2, 3, 4, 7, 8	31	"	"	440	
53	11, 13, 18, 19, & 20		"	"		
54	N e ¼ of s w ¼	13	39	1 w	40	
55	W ½ of s w ¼	13	"	"	80	
56	Lot 2	13	"	"	61	
57	All	5	40	1 w	353.02	
58	N e ¼	11	"	"	160	
59	W ½	11	"	"	320	
60	W ½ of s e ¼	11	"	"	80	
61	All	13	"	"	586.66	
					8,602.33	

Fees of register and receiver on above, at $1.00 each for each 160 acres or any quantity approximate thereto, the deficit being less than 40 acres, $108.00.

415 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage by the way of Stevens' Point to Bayfield and thence to Superior, on Lake Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875.

That the said lands are vacant, unappropriated, and are not interdicted mineral or reserved lands, and are of the character contemplated by the grant, being within the limits of ten miles on each side of the line of route for a continuous distance of twenty-six miles, being for the 7th section of the portion of said road between Stevens' Point and Bayfield, commencing at lot seven (7), section nineteen (19), township thirty-nine (39) north, of range one (1) east, of the fourth principal meridian, and ending in the northwest quarter of the southeast quarter of section twenty-two (22), township forty-three (43) north, of range 2 west.

ALMANSON EATON.

416 Subscribed and sworn to before me this twenty-second day of May, A. D. 1878.

[SEAL.] EMMONS BURR,
Notary Public.

WISCONSIN CENTRAL RAILROAD CO.,
No. 28 STATE STREET, BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereto affixed this 1st day of August, A. D. 1875.

[CORPORATE SEAL.] GARDNER COLBY,
President.

U. S. LAND OFFICE,
EAU CLAIRE, WISCONSIN, *June 1st*, 1878.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Almanson Eaton as land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

W. P. BARTLETT, *Register.*
V. W. BAYLESS, *Receiver.*

417 U. S. LAND OFFICE, *June 1st*, 1878.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected June 1st, 1878, by Almanson Eaton, its duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct.

And we further certify that the filing of said list is allowed and approved, and the whole of said lands are surveyed public lands of the United States, and within the limits of 10 miles on each side, and that the same are not, nor any part thereof, returned and de-

nominated as mineral land or lands nor claimed as swamp lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of fees payable to us allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United States land offices, and that the said company have paid to the under-
418 signed, the receiver, the full sum of one hundred and eight dollars in full payment and discharge of said fees.

W. P. BARTLETT, *Register.*
V. W. BAYLESS, *Receiver.*

(Endorsements:) Ex. F. List # 18. N. 46,125. Application of A. Eaton, agent for Wis. C't'l R. R. Co., for lands in 10-mile limits, 7th section of grant. Filed Jan. 29, 1885. N. F. Norlin, clerk cir. c't, Price Co. Filed July 17, '85. Clarence Kellogg, clerk sup. c't, Wis.

419 WIS. CEN. R. R. CO. *vs.* PRICE CO. *et al.*

"F." DEPARTMENT OF THE INTERIOR, F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1885. W. J. D.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 16 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original, and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

Filed Jan'y 29, '85. N. F. Norlin, clerk cir. c't.
Filed July 17, '85. Clarence Kellogg, clerk sup. c't.

420 STATE OF WISCONSIN:

U. S. LAND OFFICE AT EAU CLAIRE, *December* 15, 1876.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to

it and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress and the location of the line of route of the road of said company, being for the 6th section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east, the selections being particularly described as follows:

421 *North of Base Line and West of 4th Principal Meridian.*

Railroad list.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
1	E ½	5	36	1	316.19	
2	E ½ of n w ¼	5	"	"	77.87	
3	N w ¼ of n w ¼	7	"	"	49.52	
4	N e ¼ of n e ¼	9	"	"	40	
5	N e ¼ of n e ¼	17	"	"	40	
6	W ½ of n e ¼	17	"	"	80	
7	N w ¼	17	"	"	160	
8	N e ¼ of s w ¼	17	"	"	40	
9	W ½ of s w ¼	17	"	"	80	
10	E ½	19	37	"	320	
11	S w ¼	19	"	"	173.45	
12	E ½	21	"	"	320	
13	S e ¼ of n w ¼	21	"	"	40	
14	S w ¼	21	"	"	160	
15	E ½	29	"	"	320	
16	N w ¼	29	"	"	160	
17	E ½	31	"	"	320	
18	N w ¼	31	"	"	170.65	
19	S w ¼	33	"	"	160	
20	N e ¼	7	38	"	160	
21	E ½ of s e ¼	7	"	"	80	
22	N w ¼ of n e ¼	9	"	"	40	
23	Lot #8	9	"	"	45.90	
24	Lots #1, 2, & 3 (or n e ¼)	17	"	"	138.41	
25	W ½	17	"	"	298.80	
26	Lot #7	19	"	"	32.45	
27	S e ¼ of s w ¼	31	"	"	40	
28	S w ¼	19	39	"	180.73	
29	S e ¼	19	"	"	160	
30	S w ¼ of s w ¼	21	"	"	40	
31	N e ¼	29	"	"	160	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
32	E ½ of n w ¼	29	39	1	80	
33	N w ¼ of n w ¼	29	"	"	40	
34	E ½ of s w ¼	29	"	"	80	
35	S w ¼ of s w ¼	29	"	"	40	
36	W ½ of s e ¼	29	"	"	80	
37	E ½ of s w ¼	31	"	"	80	
38	W ½ of n e ¼	33	"	"	80	
39	S e ¼ of n e ¼	33	"	"	40	
					4,923.97	
	422				4,923.97	
40	N w ¼	1	36	2	145.85	
41	E ½ of s w ¼	5	"	"	80	
42	N w ¼ of s w ¼	5	"	"	40	
43	N ½	7	"	"	322.97	
44	N e ¼ of n e ¼	9	"	"	40	
45	S w ¼ of n e ¼	9	"	"	40	
46	S ½	9	"	"	320	
47	E ½	11	"	"	320	
48	S e ¼ of n w ¼	11	"	"	40	
49	S w ¼	11	"	"	160	
50	S ½	13	"	"	320	
51	All	15	"	"	640	
52	N e ¼	17	"	"	160	
53	N e ¼ of s e ¼	17	"	"	40	
54	W ½ of s e ¼	17	"	"	80	
55	Lot # 6 (n ½ of s w ¼)	3	37	"	62.82	
56	W ½ of n e ¼	5	"	"	75.70	
57	S e ¼ of n e ¼	5	"	"	40	
58	N w ¼	5	"	"	152.32	
59	N ½	7	"	"	294.40	
60	N e ¼ of s w ¼	7	"	"	40	
61	N ½ of s e ¼	7	"	"	80	
62	S w ¼ of n w ¼	17	"	"	40	
63	Lots # 3 & 7	17	"	"	99.55	
64	Lots # 1, 2, & 5	19	"	"	99.99	
65	S e ¼ of n e ¼	19	"	"	40	
66	N e ¼ of s e ¼	19	"	"	40	
67	W ½ of s e ¼	19	"	"	80	
68	E ½ of n w ¼	21	"	"	80	
69	S w ¼ of n w ¼	21	"	"	40	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
70	E ½	23	37	2	320	
71	N w ¼ of n w ¼	25	"	"	40	
72	S e ¼ of n w ¼	25	"	"	40	
73	E ½ of s e ¼	29	"	"	80	
74	S w ¼ of s e ¼	29	"	"	40	
75	N w ¼ of s w ¼	33	"	"	40	
76	S e ¼ of s e ¼	33	"	"	40	
77	S ½ of n e ¼	35	"	"	80	
78	S w ¼	35	"	"	160	
					9,777.57	
	423				9,777.57	
79	N ½ of s e ¼	35	37	2	80	
80	S ½ of n e ¼	1	38	2	80	
81	S ½ of n w ¼	1	"	"	80	
82	S ½	1	"	"	320	
83	S ½ of n e ¼	5	"	"	80	
84	Lots # 1, 2, 3, 4, & 5 (or w ½).	5	"	"	233.64	
85	N ½ of s e ¼	5	"	"	80	
86	All	7	"	"	632.88	
87	E ½ of n w ¼	9	"	"	80	
88	S w ¼ of n w ¼	9	"	"	40	
89	S ½ of s w ¼	9	"	"	80	
90	E ½	11	"	"	320	
91	E ½ of n w ¼	11	"	"	80	
92	S w ¼ of n w ¼	11	"	"	40	
93	S w ¼	11	"	"	160	
94	N ½ of n e ¼	13	"	"	80	
95	E ½ of n w ¼	13	"	"	80	
96	N w ¼ of n w ¼	13	"	"	40	
97	All	15	"	"	640	
98	N e ¼	17	"	"	160	
99	W ½	17	"	"	320	
100	N e ¼ of s e ¼	17	"	"	40	
101	W ½ of s e ¼	17	"	"	80	
102	All	19	"	"	586.89	
103	S ½ of n e ¼	21	"	"	80	
104	S ½ of n w ¼	21	"	"	80	
105	S ½	21	"	"	320	
106	N w ¼ of s e ¼	23	"	"	40	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
107	S e ¼ of s e ¼	23	38	2	40	
108	W ½	27	"	"	320	
109	S e ¼	27	"	"	155	
110	N e ¼	29	"	"	160	
111	W ½	29	"	"	320	
112	N e ¼ of s e ¼	29	"	"	40	
113	W ½ of s e ¼	29	"	"	80	
114	All	31	"	"	624.84	
115	S ½ of n e ¼	33	"	"	80	
116	E ½ of s w ¼	33	"	"	80	
117	Lots # 3, 4, & 5 (or n w ¼).	35	"	"	159.50	
					16,770.32	
	424				16,770.32	
118	N w ¼ of s w ¼	33	38	2	40	
119	N w ¼	25	39	2	160	
120	N ½ of s w ¼	25	"	"	80	
121	N ½ of s e ¼	25	"	"	80	
122	S w ¼	27	"	"	160	
123	N w ¼ of s e ¼	27	"	"	40	
124	S w ¼	29	"	"	160	
125	N e ¼ of s e ¼	29	"	"	40	
126	W ½ of s e ¼	29	"	"	80	
127	All	31	"	"	404.31	
128	N ½	33	"	"	320	
129	N e ¼ of s w ¼	33	"	"	40	
130	N ½ of s e ¼	33	"	"	80	
131	N ½	35	"	"	320	
132	N w ¼ of s w ¼	35	"	"	40	
133	W ½ of n e ¼	1	36	3	73.49	
134	S e ¼ of n e ¼	1	36	"	40	
135	S e ¼	1	"	"	160	
136	N e ¼ of s e ¼	13	"	"	40	
137	W ½ of s e ¼	13	"	"	80	
138	W ½ of n e ¼	1	37	"	77.36	
139	S e ¼ of n e ¼	1	"	"	40	
140	W ½	1	"	"	314.33	
141	S e ¼	1	"	"	160	
142	W ½ of s w ¼	13	"	"	80	
143	S ½ of n e ¼	25	"	"	80	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
144	Lots # 1, 2, 6, & 7	1	38	3	149.66	
145	S e ¼ of n e ¼	1	"	"	40	
146	S e ¼	1	"	"	160	
147	N ½	13	"	"	320	
148	N e ¼ of s e ¼	13	"	"	40	
149	W ½ of s e ¼	13	"	"	80	
150	N ½	25	"	"	320	
151	N e ¼ of s w ¼	25	"	"	40	
152	W ½ of s w ¼	25	"	"	80	
153	N ½ of s e ¼	25	"	"	80	
154	E ½	25	39	3	320	
155	S ½ of n w ¼	9	36	2	80	
					21,669.47	

135 qr. sections, @ $2.00, $270 fees.

425 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage, by the way of Stevens' Point, to Bayfield, and thence to Superior, on Lake Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875; that the said lands are vacant, unappropriated, and are not interdicted, mineral, or reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of twenty miles, being for the sixth section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot numbered fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

426 Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

WISCONSIN CENTRAL RAILROAD CO,
No. 28 STATE ST., *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *President.*

U. S. LAND OFFICE,
EAU CLAIRE, WISCONSIN, *December* 15, 1876.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Amanson Eaton as land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

427 U. S. LAND OFFICE,
EAU CLAIRE, WIS., *Dec.* 15, 1876.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office and we find the same to be correct; and we further certify that the filing of said list is allowed and approved and the whole of said lands are surveyed public lands of the United States and within the limits of twenty miles on each side, and that the same are not, nor any part thereof, returned and denominated as mineral land or lands nor claimed as swamp lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of fees, payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United
428 States land offices, and that the said company have paid to the undersigned, the receiver, the full sum of two hundred

and seventy dollars ($270) in full payment and discharge of said fees.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

(Endorsements:) Ex. E. List #16. M. 39,298. Div. F, #3. Application of Almanson Eaton for indemnity lands in 6th section of grant to Wis. C't'l. R. R. Co. Filed January 29, 1885. N. F. Norlin, clerk cir. c't.

Ex. H.

WIS. CENT. R. R. Co. *vs.* PRICE Co. *et al.*

"F." DEPARTMENT OF THE INTERIOR, F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1885. W. J. D.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 18 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original and the same is a true copy therefrom and of the whole thereof.

429 In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

STATE OF WISCONSIN:

U. S. LAND OFFICE AT WAUSAU, *December* 9, 1876.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the road of said company, being for the sixth section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number

430 fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east, the section being particularly described as follows:

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	E ½	1	36	3 e	380.32	
	E ½ of s w ¼	1	"	"	80	
	W ½ of n e ¼	11	"	"	80	
	W ½	11	"	"	320	
	N w ¼ of s e ¼	11	"	"	40	
	N e ¼ of n w ¼	1	37	3 e	38.70	
	S w ¼ of n w ¼	1	"	"	40	
	S e ¼ of s e ¼	1	"	"	40	
	N ½ of n w ¼	11	"	"	80	
	S e ¼ of s e ¼	11	"	"	40	
	S e ¼ of s e ¼	13	"	"	40	
	E ½ of n e ¼	23	"	"	80	
	N w ¼ of n e ¼	23	"	"	40	
	N e ¼ of n e ¼	35	"	"	40	
	N e ¼ of n e ¼	11	38	"	40	
	W ½	11	"	"	320	
	W ½ of s e ¼	11	"	"	80	
	S e ¼ of s e ¼	11	"	"	40	
	All	13	"	"	640	
	E ½	23	"	"	320	
	E ½ of n w ¼	23	"	"	80	
	S w ¼	23	"	"	160	
	W ½ of s e ¼	23	39	3 e	80	
	S ½ of s w ¼	25	"	"	80	
	S ½ of s e ¼	25	"	"	80	
	All	35	"	"	640	
	S e ¼ of s e ¼	1	36	4 e	40	
	S e ¼ of n e ¼	5	"	"	40	
	W ½ of n w ¼	5	"	"	110.77	
	W ½ of s w ¼	5	"	"	80	
	N w ¼ of s e ¼	5	36	4 e	40	
	N ½	7	"	"	326.44	
	N e ¼ of s w ¼	7	"	"	40	
	W ½ of s w ¼	7	"	"	87.32	
	S ½ of n w ¼	9	"	"	80	
	E ½ of s w ¼	9	"	"	80	
	N w ¼ of s w ¼	9	"	"	40	
432	N e ¼ of n e ¼	11	"	"	40	
	All	13	"	"	640	
	W ½ of n w ¼	15	"	"	80	
	S w ¼	17	"	"	160	
	N e ¼ of s e ¼	17	"	"	40	

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.
	W ½ of s e ¼	17	36	4 e	80
	S w ¼ of n e ¼	1	37	4 e	40
	N ½ of n e ¼	1	"	"	78.93
	N w ¼	1	"	"	156.73
	N w ¼ of s w ¼	1	"	"	40
	S ½ of s e ¼	1	"	"	80
	N e ¼ of n e ¼	3	"	"	39.25
	Lots 1, 2, 3, & 6	3	"	"	112.13
	S w ¼ of n e ¼	3	"	"	40
	N w ¼ of n w ¼	5	"	"	39.17
	S ½ of n w ¼	5	"	"	80
	S w ¼	5	"	"	160
	W ½ of s e ¼	5	"	"	80
	Lot 2 (or s e ¼ of s e ¼)	5	"	"	32.35
	All	7	"	"	637.04
	Lots 1 & 2 (in n e ¼)	9	"	"	55.55
	S w ¼ of s w ¼	9	"	"	40
	Lots 3 & 4 (in s e ¼)	9	"	"	66.20
	S e ¼ of s e ¼	9	37	4 e	40
	S ½ of n e ¼	11	"	"	80
	S e ¼ of n w ¼	11	"	"	40
	E ½ of s w ¼	11	"	"	80
	S e ¼	11	"	"	160
	N ½ of n w ¼	13	"	"	80
	N ½ of n e ¼	17	"	"	80
	N w ¼	17	"	"	160
	N ½ of s w ¼	17	"	"	80
	W ½ of n w ¼	19	"	"	81.13
	S e ¼ of n w ¼	19	"	"	40
	E ½ of s w ¼	19	"	"	80
	S w ¼ of s e ¼	19	"	"	40
433	W ½ of s e ¼	21	37	4 e	80
	S e ¼ of s e ¼	21	"	"	40
	S e ¼ of s e ¼	23	"	"	40
	S ½ of s w ¼	25	"	"	80
	S ½ of s e ¼	25	"	"	80
	S w ¼ of n e ¼	27	"	"	40
	N w ¼	27	"	"	160
	E ½ of s w ¼	27	"	"	80
	S e ¼	27	"	"	160
	N ½ of n e ¼	31	"	"	80
	W ½	31	"	"	326.54

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	W ½ of s e ¼	31	37	4 e	80	
	N e ¼	33	"	"	160	
	E ½ of n w ¼	33	"	"	80	
	S w ¼ of n w ¼	33	"	"	40	
	N ½ of s e ¼	33	"	"	80	
	E ½	35	"	"	320	
	S ½ of n w ¼	35	37	4 e	80	
	S w ¼	35	"	"	160	
	S w ¼ of n w ¼	1	38	4 e	40	
	S ½ of s e ¼	1	"	"	80	
	E ½ of s e ¼	5	"	"	80	
	N w ¼ of s e ¼	5	"	"	40	
	All	7	"	"	634.88	
	S ½ of s w ¼	9	"	"	80	
	S ½ of s e ¼	9	"	"	80	
	Lots 1 & 2 (in s w ¼)	11	"	"	55.95	
	N w ¼ of n e ¼	13	"	"	40	
	N e ¼	15	"	"	159.20	
	W ½	15	"	"	320	
	N w ¼ of s e ¼	15	"	"	40	
	S e ¼ of s e ¼	15	"	"	40	
	W ½ of n e ¼	17	"	"	80	
	S e ¼ of n e ¼	17	"	"	40	
	W ½	17	"	"	320	
	S e ¼	17	"	"	160	
	All	19	"	"	638.72	
434	N w ¼ of n w ¼	21	"	"	40	
	S w ¼ of s w ¼	21	"	"	40	
	W ½ of n e ¼	23	"	"	80	
	S e ¼ of n e ¼	23	"	"	40	
	E ½ of n w ¼	23	"	"	80	
	S w ¼ of n w ¼	23	"	"	40	
	N ½ of s w ¼	23	"	"	80	
	S ½ of s w ¼	25	"	"	80	
	S ½ of s e ¼	25	"	"	80	
	S w ¼	27	"	"	147.10	
	All	29	38	4 e	640	
	All	31	"	"	633.68	
	Lots 1, 2, 3, & 6	33	"	"	123	
	W ½ of n e ¼	33	"	"	80	
	N w ¼	33	"	"	160	
	N w ¼ of s w ¼	33	"	"	40	

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	S e ¼ of s e ¼	33	38	4 e	40	
	W ½ of n e ¼	35	"	"	80	
	S e ¼ of n w ¼	35	"	"	40	
	S ½	35	"	"	320	
	S ½	19	39	4 e	307.81	
	S e ¼ of s w ¼	21	"	"	40	
	S ½ of s e ¼	21	"	"	80	
	N e ¼ of s w ¼	23	"	"	40	
	W ½ of s w ¼	23	"	"	80	
	N ½ of s e ¼	23	"	"	80	
	Lots 1 & 2	23	"	"	45.40	
	N w ¼ of n e ¼	25	"	"	40	
	N ½	27	"	"	320	
	Lots 1, 2, & 3	27	"	"	102.20	
	N e ¼ of s w ¼	27	"	"	40	
	N e ¼ of s e ¼	27	"	"	40	
	N w ¼ of n w ¼	33	"	"	40	
	E ½ of s e ¼	33	"	"	80	
	S w ¼ of s e ¼	33	"	"	40	
	N e ¼	35	"	"	160	
435	N w ¼	35	39	4 e	157	
	N w ¼ of s w ¼	35	"	"	40	
	S e ¼ of s w ¼	35	"	"	40	
	N e ¼ of s e ¼	35	"	"	40	
	W ½ of s e ¼	35	39	4 e	80	
	S w ¼ of n w ¼	5	36	5 e	40	
	S w ¼	5	"	"	160	
	N w ¼	7	"	"	158	
	N e ¼ of s w ¼	7	"	"	40	
	W ½ of s w ¼	7	"	"	78.80	
	N e ¼	17	"	"	160	
	E ½ of s w ¼	17	"	"	80	
	W ½ of s e ¼	17	"	"	80	
	E ½ of n e ¼	5	37	5 e	76.92	
	Lots 2, 5, 6, 9, & 10	5	"	"	134.95	
	N w ¼ of s e ¼	5	"	"	40	
	N ½	7	"	"	323.20	
	N e ¼ of n e ¼	17	"	"	40	
	S w ¼ of n e ¼	17	"	"	40	
	N e ¼ of n w ¼	17	"	"	40	
	S w ¼ of n w ¼	17	"	"	40	
	E ½ of s w ¼	17	"	"	80	

Railroad List—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	N w ¼ of s w ¼	17	37	5 e	40	
	N w ¼ of s e ¼	17	"	"	40	
	S e ¼ of n e ¼	19	"	"	40	
	N e ¼ of s e ¼	19	"	"	40	
	N ½ of n e ¼	29	"	"	80	
	W ½ of n w ¼	29	"	"	80	
	S e ¼ of n w ¼	29	"	"	40	
	S w ¼	29	"	"	160	
	W ½ of s e ¼	29	"	"	80	
	S e ¼ of s e ¼	29	"	"	40	
	E ½	5	38	5 e	295.28	
	S e ¼ of n w ¼	5	"	"	40	
	S w ¼	5	38	5 e	160	
	N ½	7	"	"	330.83	
	N ½ of s w ¼	7	"	"	86.33	
436	N w ¼ of s e ¼	7	"	"	40	
	S ½ of n e ¼	17	"	"	80	
	S ½ of n w ¼	17	"	"	80	
	N ½ of s w ¼	17	"	"	80	
	S e ¼ of s e ¼	17	"	"	40	
	S e ¼ of n e ¼	19	"	"	40	
	N w ¼	19	"	"	173.09	
	N ½ of s w ¼	19	"	"	86.22	
	E ½ of s e ¼	19	"	"	80	
	N w ¼ of s e ¼	19	"	"	40	
	S e ¼ of s e ¼	31	"	"	40	
	Lots 3, 5, & 6	19	39	5 e	101.45	
	N w ¼ of n w ¼	29	"	"	40	
	S w ¼ of s w ¼	29	"	"	40	
	E ½ of s e ¼	29	"	"	80	
	S w ¼ of s e ¼	29	"	"	40	

437 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage, by the way of Stevens' Point, to Bayfield, and thence to Superior, on Lake

Superior, for which a grant of lands was made by the acts of Congress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875.

That the said lands are vacant, unappropriated, and are not interdicted, mineral, or reserved lands and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of twenty miles, being for the sixth section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot numbered fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

438 Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

WISCONSIN CENTRAL RAILROAD CO.,
No. 28 STATE STREET, BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *Pres't.*

U. S. LAND OFFICE,
WAUSAU, WISCONSIN, *December 9th*, 1876.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Almanson Eaton, as land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

S. H. ALBAN, *Register.*
D. L. QUAW, *Receiver.*

439 U. S. LAND OFFICE, WAUSAU, WIS., *Dec.* 9, 1876.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office and we find the same to be correct; and we further certify that the filing of said list is allowed and approved and the whole of said lands are surveyed public lands of the United

States and within the limits of twenty miles on each side, and that the same are not nor any part thereof returned and denominated as mineral land or lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of fees, payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United States
440 land offices, and that the said company has paid to the undersigned, the receiver, the full sum of two hundred & eighty-five & $\frac{23}{100}$ ($285.23) — in full payment and discharge of said fees.

S. H. ALBAN, *Register.*
D. L. QUAW, *Receiver.*

(Endorsements:) #18. M. 38,463. Div. F #2. Land office, Wausau, Wis., Dec. 9th, 1876. 6th section Wis. Cen. R. R. selections, indemnity. Filed January 29, 1885. N. F. Norlin, clerk cir. c't. Filed July 17, 1885. Clarence Kellogg, cl'k sup. c't Wis.

441 WIS. CENT. R. R. CO. *vs.* PRICE CO. *et al.*

"F." DEPARTMENT OF THE INTERIOR, F. W. C.
GENERAL LAND OFFICE, *January 21st*, 1885. W. J. D.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed is a true copy of the original application and list No. 15 of the Wisconsin Central Railroad Company for patents on lands therein described, together with all papers annexed thereto and endorsements thereon on file in my office; that I have compared such copy with such original, and the same is a true copy therefrom and of the whole thereof.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] N. C. McFARLAND,
Commissioner of the General Land Office.

[Endorsed:] Filed January 29, 1885. N. F. Norlin, clerk cir. c't. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

STATE OF WISCONSIN:

U. S. LAND OFFICE AT EAU CLAIRE, *December* 15, 1876.

The Wisconsin Central Railroad Company, under and by virtue of the act of Congress entitled "An act granting lands to aid
442 in the construction of certain railroads in the State of Wisconsin," approved May 5th, 1864, and a resolution explanatory of and in addition to said act, approved June 21st, 1866, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, hereby makes and files the following list of selections of public lands claimed by the

said company as inuring to it and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the road of said company, being for the 6th section of the portion of the road from Stevens' Point to Bayfield, commencing in the southeast quarter of section thirteen (13), township — six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range 1 east, the selections being particularly described as follows:

443 *North of Base Line and East of 4th Principal Meridian.*

Railroad list.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
1	All	1	36	1	767.20	
2	N ½	3	"	"	401.44	
3	N ½ of s w ¼	3	"	"	80	
4	N ½ of s e ¼	3	"	"	80	
5	N e ¼	5	"	"	179.20	
6	W ½ of	5	"	"	333.68	
7	W ½ of s e ¼	5	"	"	80	
8	E ½ of n e ¼	11	"	"	80	
9	S w ¼ of n e ¼	11	"	"	40	
10	E ½ of s w ¼	11	"	"	80	
11	S w ¼ of s w ¼	11	"	"	40	
12	S e ¼	11	"	"	160	
13	N e ¼	13	"	"	160	
14	W ½	13	"	"	320	
15	N ½ of s e ¼	13	"	"	80	
16	S e ¼ of n e ¼	15	"	"	40	
17	E ½ of s e ¼	15	"	"	80	
18	S w ¼ of s e ¼	15	"	"	40	
19	S w ¼ of n e ¼	1	37	"	40	
20	W ½ of s w ¼	1	"	"	80	
21	Lots 4, 6, & 7	7	"	"	117.60	
22	N e ¼ of s e ¼	7	"	"	40	
23	E ½ of n e ¼	19	"	"	80	
24	S w ¼ of n e	19	"	"	40	
25	Lots # 11, 12, 17, 18, 19, & 20.	19	"	"	240	
26	S e ¼	19	"	"	160	
27	N e ¼ of s w ¼	21	"	"	40	
28	S e ¼	21	"	"	160	
29	S w ¼ of n e ¼	23	"	"	40	

North of Base Line and East of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
30	S ½ of n w ¼	23	37	1	80	
31	Lot # 1, 2, & 4	25	"	"	73.20	
32	S w ¼ of s e ¼	25	"	"	40	
33	N e ¼	27	"	"	160	
34	N ½ of n w ¼	27	"	"	80	
35	S e ¼ of s w ¼	27	"	"	40	
36	E ½ of s e ¼	27	"	"	80	
37	S w ¼ of s e ¼	27	"	"	40	
					4,672.32	
	444				4,672.32	
38	S ½	29	37	1	320	
39	S w ¼ of n e ¼	31	"	"	40	
40	Lots # 2, 3, 4, 7, 8, 9,					
41	10, 11, 12 13, 14, 15, 16, 17, 18, 19, & 20	31	"	"	722.12	
42	S e ¼	31	"	"	160	
43	All	33	"	"	640	
44	All	35	"	"	640	
45	W ½ of n e ¼	1	38	"	79.71	
46	W ½	1	"	"	319.54	
47	N e ¼ of n e ¼	3	"	"	41.11	
48	W ½ of n e ¼	3	"	"	80.33	
49	E ½ of n w ¼	3	"	"	80.55	
50	N w ¼ of n w ¼	3	"	"	40.77	
51	N e ¼ of s w ¼	3	"	"	40	
52	N w ¼ of s e ¼	5	"	"	40	
53	Lots # 5 & 6	7	"	"	100.52	
54	E ½ of n w ¼	9	"	"	80	
55	N e ¼ of s w ¼	9	"	"	40	
56	N w ¼ of s e ¼	9	"	"	40	
57	N w of ¼ n e ¼	13	"	"	40	
58	S e ¼ of n e ¼	15	"	"	40	
59	N e ¼ of s e ¼	15	"	"	40	
60	E ½ of n e ¼	21	"	"	80	
61	N e ¼ of n e ¼	27	"	"	40	
62	N e ¼ of n w ¼	29	"	"	40	
63	Lot # 19	31	"	"	20.50	
64	E ½ of s e ¼	33	"	"	80	
65	N ½ of s e ¼	35	"	"	80	

North of Base Line and East of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
66	S e ¼	21	39	1	160	
67	N e ¼ of sw ¼	23	"	"	40	
68	W ½ of s e ¼	23	"	"	80	
69	S e of ¼ s e ¼	23	"	"	40	
70	All	25	"	"	640	
71	S ½ of s w ¼	27	"	"	80	
72	N ¼ of n e ¼	31	"	"	80	
73	Lots # 1, 4, 6, 9, 10, & 20.	31	"	"	251.49	
74	N e ½ of s e ¼	31	"	"	40	
					10,048.96	
	445				10,048.96	
75	N e ¼ of n w ¼	33	39	1	40	
76	W ½ " n w ¼	33	"	"	80	
77	N e ¼	35	"	"	160	
78	S e ¼ of n w ¼	35	"	"	40	
79	E ½ " s e ¼	35	"	"	80	
80	N w ¼ " s e ¼	35	"	"	40	
					10,488.96	

North of Base Line and West of 4th Principal Meridian.

					10,488.96	
81	E ½	1	36	1 w	319.61	
82	E ½ of n w ¼	1	"	"	79.43	
83	S w ¼ " n w ¼	1	"	"	40	
84	S w ¼	1	"	"	160	
85	All	3	"	"	612.22	
86	N e ¼ of n e ¼	11	"	"	40	
87	W ½ " s w ¼	11	"	"	80	
88	S e ¼ " s w ¼	11	"	"	40	
89	S e ¼ " s e ¼	11	"	"	40	
90	W ½ " n e ¼	15	"	"	80	
91	W ½	15	"	"	320	
92	N w ¼ of s e ¼	15	"	"	40	
93	N e ¼	1	37	"	155.10	
94	N w ¼	3	"	"	145.90	
95	S e ¼ of s e ¼	3	"	"	40	
96	S w ¼	11	"	"	160	

North of Base Line and West of 4th Principal Meridian—Continued.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
97	S w ¼ of s e ¼	13	36	1 w	40	
98	N w ¼ " s w ¼	23	"	"	40	
99	S ½ " s e ¼	23	"	"	80	
100	N ½ " n e ¼	25	"	"	80	
101	N w ¼	25	"	"	160	
					13,241.22	
	446				13,241.22	
102	N w ¼ of s w ¼	25	37	1	40	
103	E ½	27	"	"	320	
104	E ½ of n w ¼	27	"	"	80	
105	S w ¼ " n w ¼	27	"	"	40	
106	S w ¼	27	"	"	160	
107	N ½ of n w ¼	35	"	"	80	
108	E ½ " s e ¼	1	38	"	80	
109	S w ¼ " s e ¼	1	"	"	40	
110	N w ¼ " n w ¼	11	"	"	40	
111	E ½ " n e ¼	13	"	"	80	
112	S e ¼	13	"	"	160	
113	N w ¼	15	"	"	160	
114	N e ¼	25	"	"	160	
115	N w ¼ of s e ¼	35	"	"	40	
116	S e ¼ " s e ¼	35	"	"	40	
117	Nots # 1, 2, & 3	35	"	"	109.60	
118	S w ¼ of n e ¼	35	"	"	40	
					14,910.82	Acres.

93 qr. sections, @ $2.00, = $186.00.

447 STATE OF WISCONSIN, *County of Portage:*

I, Almanson Eaton, being duly sworn, depose and say that I am the land agent of the Wisconsin Central Railroad Company, formerly the Portage, Winnebago and Superior Railroad Company; that the foregoing list of lands which I hereby select is a portion of the public lands claimed by the said railroad company as inuring to it to aid in the construction of the road from the city of Portage by the way of Stevens' Point to Bayfield, and thence to Superior, on Lake Superior, for which a grant of land was made by the acts of Con-

gress approved May 5th, 1864, and June 21st, 1866, and by act approved March 3d, 1875; that the said lands are vacant, unappropriated, and are not interdicted mineral or reserved lands, and are of the character contemplated by the grant, being within the limits of ten (10) miles on each side of the line of route for a continuous distance of twenty miles, being for the 6th section of the portion of said road between Stevens' Point and Bayfield, commencing in the southeast quarter of section thirteen (13), township thirty-six (36) north, of range one (1) east, and ending in lot number fourteen (14), section nineteen (19), township thirty-nine (39) north, of range one (1) east.

ALMANSON EATON.

448 Subscribed and sworn to before me this seventh day of December, A. D. 1876.

[SEAL.] GEO. W. HUNGERFORD,
Notary Public.

WISCONSIN CENTRAL RAILROAD CO.,
No. 28 STATE ST., BOSTON, *August 1st*, 1875.

Know all men that Almanson Eaton, of Stevens' Point, in the State of Wisconsin, is hereby appointed land agent of the Wisconsin Central Railroad Company from and after this date.

In witness whereof the Wisconsin Central Railroad Company has caused these presents to be signed by Gardner Colby, its president, thereunto lawfully authorized, and caused its common seal to be hereunto affixed this first day of August, A. D. 1875.

[L. S.] GARDNER COLBY, *Pres't.*

U. S. LAND OFFICE,
EAU CLAIRE, WISCONSIN, *December* 15, 1876.

We do hereby certify that we have carefully compared the foregoing copy with original appointment of Almanson Eaton as land agent of the Wisconsin Central Railroad Company, and that the same is a true copy thereof.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

449 U. S. LAND OFFICE,
EAU CLAIRE, WIS., *Dec.* 15, 1876.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Wisconsin Central Railroad Company under the grant to the State of Wisconsin by acts of Congress approved May 5th, 1864, and June 21st, 1866, and selected December, 1876, by Almanson Eaton, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct; and we further certify that the filing of said list is allowed and approved and the whole of said lands are surveyed public lands of the United States and within the limits of ten (10) miles on each side, and that

the same are not nor any part thereof returned and denominated as mineral land or lands nor claimed as swamp lands, nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of fees, payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the circular of instruction dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to registers and receivers of the United
450 States land offices, and that the said company have paid to the undersigned, the receiver, the full sum of one hundred and eighty-six dollars ($186.00) in full payment and discharge of said fees.

W. P. BARTLETT, *Register.*
JAS. M. BRACKETT, *Receiver.*

(End's:) List # 15. M. 39,298. Div. F # 2. Application of Almanson Eaton for lands in 10-mile limits of grant to Wis. C't'l R. R. Co., 6th section. Ex. D. Filed January 29, 1885. N. F. Norlin, clerk cir. c't.

Ex. G. Filed January 29, 1885. N. F. Norlin, clerk cir. c't Price Co. Filed July 17, 1885. Clarence Kellogg, cl'k sup. c't Wis.

WIS. CENT. R. R. CO. *vs.* PRICE CO. *et al.*

DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct. 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to twenty-three, inclusive, are copies of patents, numbered eight and nine, issued to the Wisconsin Central Railroad Company January 9th and August 10th, 1878, so far as they relate to lands in townships 34 to 40 N., inclusive; that I have compared each of said copies with the original thereof of record in my office, and that each such copy is a true copy of such original and of the whole thereof, so far as relates to lands in the townships above mentioned.

451 In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

The United States of America to all to whom these presents shall come, Greeting:

Whereas by the act of Congress approved May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and a resolution explanatory of and in addition to said act, approved June 21, 1866, and an act authorizing change of line, approved March 3, 1875,

authority is given to the Wisconsin Central Railroad Company, a corporation existing under the laws of the State of Wisconsin, to construct a railroad under certain conditions and stipulations, as expressed in said acts, and provision is made for granting to the State of Wisconsin, for the use and benefit of said railroad company, "every alternate section of public land designated by odd numbers for ten sections in width on each side of said railroad;"

And whereas it is further enacted that in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any sec-
452 tions or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, then so much land is set apart to be selected for the purposes aforesaid, nearest to the tier of sections above specified, as shall be equal to the lands which the United States have sold or otherwise disposed of or to which the right of pre-emption or homestead has attached, provided that the lands to be so located shall in no case be further than twenty miles from the line of said road;

And whereas it is further enacted by the seventh section of said act that when the Governor of the State of Wisconsin shall certify that any section of twenty consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad patents shall issue to said company for the lands thereby granted;

And whereas it is shown by certificates of the Governor of the State of Wisconsin bearing dates November 20th, 1872; August 16th, 1873; February 13th and 20th, 1874; December 29th, 1875; October 30th, November 15th, and December 27th, 1876, and maps therewith, now on file in the General Land Office, that the said Wisconsin Central Railroad Company has completed and equipped in the manner prescribed by said acts its line of road from Portage City to Ashland, in section fourteen, township forty-five north, range three west, fourth principal meridian;

453 And whereas certain tracts have been selected by Almanson Eaton, the agent for the Wisconsin Central Railroad Company, as shown by his original lists of selections, bearing dates December 7th and 11th, 1876, and certified under dates December 9th, 15th, and 19th, 1876, by the registers and receivers at Eau Claire, Wausau, and Bayfield, Wisconsin, the said tracts being described as follows:

North of base line and east of fourth principal meridian:

Township Thirty-six, Range One.

All of section one, containing seven hundred and sixty-seven acres and twenty-hundredths of an acre; the north half of the southwest quarter, the north half of the southeast quarter, and the north half of section three, containing five hundred and sixty-one acres and forty-four hundredths of an acre; the west half of the southeast quarter, the northeast quarter, and the west half of section five, containing five hundred and ninety-two acres and eighty-eight hundredths of an acre; the east half of the northeast quarter, the

southwest quarter of the northeast quarter, the east half of the southwest quarter, the southwest quarter of the southwest quarter, and the southeast quarter of section eleven, containing four hundred acres; the north half of the southeast quarter, the northeast quarter, and the west half of section thirteen, containing five hundred and sixty acres; the southeast quarter of the northeast quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section fifteen, containing one hundred and sixty acres.

454

Township Thirty-seven, Range One.

The southwest quarter of the northeast quarter and the west half of the southwest quarter of section one, containing one hundred and twenty acres; the northeast quarter of the southeast quarter and lots six and seven of section seven, containing one hundred and twenty acres; the east half of the northeast quarter, the southwest quarter of the northeast quarter, lots eleven, twelve, seventeen, eighteen, nineteen, and twenty, and the southeast quarter of section nineteen, containing five hundred and twenty acres; the northeast quarter of the southwest quarter and the southeast quarter of section twenty-one, containing two hundred acres; the southwest quarter of the northeast quarter and the south half of the northwest quarter of section twenty-three, containing one hundred ond twenty acres; lots one, two, and four and the southwest quarter of the southeast quarter of section twenty-five, containing one hundred and thirteen acres and twenty-hundredths of an acre; the northeast quarter, the north half of the northwest quarter, the southeast quarter of the southwest quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section twenty-seven, containing four hundred acres; the south half of section twenty-nine, containing three hundred and twenty acres; the southwest quarter of the northeast quarter, lots two, three, four, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, and twenty, and the southeast quarter of section thirty-one, containing nine hundred and twenty-two acres and twelve-hundredths of an acre; all of section thirty-three, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

455

Township Thirty-eight, Range One.

The west half of the northeast quarter and the west half of section one, containing three hundred and ninety-nine acres and twenty-five hundredths of an acre; the northeast quarter of the northeast quarter, the west half of the northeast quarter, the east half of the northwest quarter, the northwest quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section three, containing two hundred and eighty-two acres and seventy-six hundredths of an acre; the northwest quarter of the southeast quarter of section five, containing forty acres; lots five and six in section

seven, containing one hundred acres and fifty-two hundredths
456 of an acre; the east half of the northwest quarter, the north-east quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section nine, containing one hundred and sixty acres; the northwest quarter of the northeast quarter of section thirteen, containing forty acres; the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section fifteen, containing eighty acres; the east half of the north-east quarter of section twenty-one, containing eighty acres; the northeast quarter of the northeast quarter of section twenty-seven, containing forty acres; the northeast quarter of the northwest quarter of section twenty-nine, containing forty acres; lot nineteen of section thirty-one, containing twenty acres and fifty-hundredths of an acre; the east half of the southeast quarter of section thirty-three, containing eighty acres, and the north half of the southeast quarter of section thirty-five, containing eighty acres.

Township Thirty-nine, Range One.

The southeast quarter of section twenty-one, containing one hundred and sixty acres; the northeast quarter of the southwest quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section twenty-three, containing one hundred and sixty acres; all of section twenty-five, containing
457 six hundred and forty acres; the south half of the southwest quarter of section twenty-seven, containing eighty acres; the north half of the northeast quarter of section thirty-one, containing eighty acres; lots one, four, six, nine, ten, and twenty and the northeast quarter of the southeast quarter of section thirty-one, containing two hundred and ninety-one acres and forty-nine hundredths of an acre; the north-east quarter of the northwest quarter and the west half of the northwest quarter of section thirty-three, containing one hundred and twenty acres; the southeast quarter of the northwest quarter, the east half of the southeast quarter, the northwest quarter of the southeast quarter, and the northeast quarter of section thirty-five, containing three hundred and twenty acres.

North of base line and west of fourth principal meridian:

Township Thirty-six, Range One.

The east half of the northwest quarter, the southwest quarter, and the east half of section one, containing five hundred and ninety-nine acres and four-hundredths of an acre; all of section three, containing six hundred and twelve acres and twenty-two hundredths of an acre; the northeast quarter of the northeast quarter, the west half of the southwest quarter, the southeast quarter of the southwest
458 quarter, and the southeast quarter of the southeast quarter of section eleven, containing two hundred acres; the west half of the northeast quarter, the northwest quarter of the southeast quarter, and the west half of section fifteen, containing four hundred and forty acres.

Township Thirty-seven, Range One.

The northeast quarter of section one, containing one hundred and fifty-five acres and ten-hundredths of an acre; the northwest quarter and the southeast quarter of the southeast quarter of section three, containing one hundred and eighty-five acres and ninety-hundredths of an acre; the southwest quarter of section eleven, containing one hundred and sixty acres; the southwest quarter of the southeast quarter of section thirteen, containing forty acres; the northwest quarter of the southwest quarter and the south half of the southeast quarter of section twenty-three, containing one hundred and twenty acres; the north half of the northeast quarter, the northwest quarter, and the northwest quarter of the southwest quarter of section twenty-five, containing two hundred and eighty acres; the east half of the northwest quarter, the southwest quarter of the northwest
459 quarter, the southwest quarter and the east half of section twenty-seven, containing six hundred acres; the north half of the northwest quarter of section thirty-five, containing eighty acres.

Township Thirty-eight, Range One.

The east half of the southeast quarter and the southwest quarter of the southeast quarter of section one, containing one hundred and twenty acres; the northwest quarter of the northwest quarter of section eleven, containing forty acres; the east half of the northeast quarter and the southeast quarter of section thirteen, containing two hundred and forty acres; the northwest quarter of section fifteen, containing one hundred and sixty acres; the northeast quarter of section twenty-five, containing one hundred and sixty acres; the northwest quarter of the southeast quarter and the southeast quarter of the southeast quarter of section thirty-five, containing eighty acres.

North of base line and east of fourth principal meridian:

Township Thirty-six, Range Two.

All of section one, containing seven hundred and eighty-five acres and seventy-two hundredths of an acre; all of section five, containing seven hundred and eighty-four acres and seventy-two hundredths of an acre; the northwest quarter of the northeast quarter, the northwest quarter of the southwest quarter, and the north-
460 west quarter of section three, containing three hundred and forty-nine acres and seventy-seven hundredths of an acre; all of section seven, containing six hundred and sixty-three acres and fifty-two hundredths of an acre; the south half of the northeast quarter, the southeast quarter of the northwest quarter, and the south half of section nine, containing four hundred and forty acres; the north half of the northeast quarter and the northwest quarter of section eleven, containing two hundred and forty acres; the north half of the northeast quarter, the northeast quarter of the northwest

quarter, the west half of the northwest quarter, and the northwest quarter of the southwest quarter of section seventeen, containing two hundred and forty acres.

Township Thirty-seven, Range Two.

All of section one, containing six hundred and forty-one acres and twelve-hundredths of an acre; all of section three, containing six hundred and forty acres and thirty-two hundredths of an acre; the east half, the northwest quarter and the east half of the southwest quarter of section five, containing five hundred and sixty-one acres and ninety-hundredths of an acre; the southeast quarter
461 of the southwest quarter and the east half of section nine, containing three hundred and sixty-acres; the northeast quarter and the west half of section eleven, containing four hundred and eighty acres; the east half of the northeast quarter, the northwest quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section thirteen, containing one hundred and sixty acres; the north half of section fifteen, containing three hundred and twenty acres; the southeast quarter of the southeast quarter of section seventeen, containing forty acres; the west half of the northeast quarter and the west half of the southeast quarter of section nineteen, containing one hundred and sixty acres; the east half of section twenty-three, containing three hundred and twenty acres; all of section twenty-five, containing six hundred and forty acres; the northeast quarter and the northwest quarter of the southeast quarter of section twenty-seven, containing two hundred acres; the southeast quarter of section twenty-nine, containing one hundred and sixty acres; all of section thirty-one, containing six hundred and sixty acres and thirty-eight hundredths of an acre; all of section thirty-three, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

462 *Township Thirty-eight, Range Two.*

The south half of the southeast quarter of section three, containing eighty acres; the northeast quarter and the west half and the north half of the southeast quarter of section seven, containing five hundred and seventy-three acres and thirty-six hundredths of an acre; the southwest quarter of the southeast quarter of section eleven, containing forty acres; the east half of the northeast quarter, the south half of the northwest quarter, the northeast quarter of the southeast quarter, and the southwest quarter of section thirteen, containing three hundred and sixty acres; the west half and the southeast quarter of section fifteen, containing four hundred and eighty acres; the southeast quarter of the northeast quarter, the southeast quarter of the southwest quarter, and the north half of the southeast quarter of section seventeen, containing one hundred and sixty acres; the west half of the northeast quarter, the south half of the southeast quarter, and the west half of section twenty-three, containing four hundred and eighty acres; all of section twenty-five, containing six hundred and forty acres; all of section twenty-seven, containing

six hundred and forty acres; the southeast quarter of the
463 northwest quarter of section thirty-one, containing forty acres; all of section thirty-three, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres.

Township Thirty-nine, Range Two.

The southeast quarter and the north half of the southwest quarter of section nineteen, containing two hundred and thirty-eight acres and seventy-nine hundredths of an acre; the southwest quarter of section twenty-one, containing one hundred and sixty acres; the southwest quarter and the southeast quarter of section twenty-three, containing three hundred and twenty acres; the northwest quarter and the west half of the southwest quarter of section twenty-five, containing two hundred and forty acres; the northeast quarter of the northeast quarter of section twenty-seven, containing forty acres; the northeast quarter, the northeast quarter of the southwest quarter, the north half of the southeast quarter, and lots one, two, and three of section twenty-nine, containing three hundred and seventy-three acres and twenty-hundredths of an acre; the north half of the southwest quarter, the northwest quarter of the southeast quarter, and the north half of section thirty-one, containing four hundred and forty acres and fifty-one hundredths of an acre; the west half of the southeast quarter, the northeast quarter of the
464 southeast quarter, and the northeast quarter of section thirty-five, containing two hundred and eighty acres.

Township Thirty-six, Range Three.

The northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, and the south half of section three, containing six hundred and ninety-five acres and ninety-four hundredths of an acre; the east half of the northeast quarter and the northwest quarter of the northeast quarter of section five, containing one hundred and eighty-seven acres and seventy-two hundredths of an acre; all of section nine, containing six hundred and forty acres; the southeast quarter of the southeast quarter and the west half of section fifteen, containing three hundred and sixty acres; the southeast quarter of the southeast quarter of section seventeen, containing forty acres.

Township Thirty-seven, Range Three.

All of section three, containing six hundred and thirty-five acres and seventy-four hundredths of an acre; all of section five, containing six hundred and thirty-seven acres and eighty-hundredths of an acre; all of section seven, containing six hundred and forty-five acres and ten-hundredths of an acre; the east half of the
465 northwest quarter, the southwest quarter of the southwest quarter, and the east half of section nine, containing four hundred and forty acres; the northeast quarter, the east half of the southeast quarter, the northwest quarter of the southeast quarter, and the west half of section fifteen, containing six hundred acres;

the west half of the southwest quarter, the northeast quarter of the southwest quarter, and the north half of section seventeen, containing four hundred and forty acres; the west half of the southwest quarter of section nineteen, containing eighty-three acres and eighty-three hundredths of an acre; all of section twenty-one, containing six hundred and forty acres; the west half of the northeast quarter, the west half of the southeast quarter, and the west half of section twenty-seven, containing four hundred and eighty acres; all of section twenty-nine, containing six hundred and forty acres; the west half of the southeast quarter, the northeast quarter of the southeast quarter, the west half and the northeast quarter of section thirty-one, containing six hundred and eleven acres and twenty-hundredths of an acre; the northeast quarter of the northwest quarter, and the west half of the northwest quarter of section thirty-three, containing one hundred and twenty acres.

466 *Township Thirty-eight, Range Three.*

All of section three, containing six hundred and thirty-three — and thirty-four hundredths of an acre; the west half of the southwest quarter, and the southeast quarter of the southwest quarter of section five, containing one hundred and twenty acres; the south half of the southwest quarter, lot five, and the southeast quarter of the southeast quarter of section seven, containing one hundred and seventy acres and four-hundredths of an acre; the east half of the northwest quarter, the southwest quarter of the northwest quarter, the east half and the southwest quarter of section nine, containing six hundred acres; all of section fifteen, containing six hundred and forty acres; all of section seventeen, containing six hundred and forty acres; the west half of the northeast quarter, the west half and the southeast quarter of section nineteen, containing five hundred and fifty-five acres and eighty-four hundredths of an acre; all of section twenty-one, containing six hundred and forty acres; the south half of the southwest quarter, and the south half of the southeast quarter of section twenty-seven, containing one hundred and sixty acres; all of section twenty-nine, containing six hundred and forty acres; all of section thirty-one, containing six hundred
467 and forty-one acres and forty-four hundredths of an acre; all of section thirty-three, containing six hundred and forty acres.

Township Thirty-nine, Range Three.

The southeast quarter of the southeast quarter of section twenty-one, containing forty acres; the north half of the northeast quarter, the north half of the northwest quarter, and the south half of the southeast quarter of section twenty-seven, containing two hundred and forty acres; the west half of the southwest quarter and the northwest quarter of section twenty-nine, containing two hundred and forty acres.

* * * * * * *

The said tracts, as described on the foregoing pages, numbered two to twenty-three, inclusive, make the aggregate area (102,622.89) one hundred and two thousand six hundred and twenty-two acres and eighty-nine hundredths of an acre.

Now, know ye that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted, and by these presents do give and grant, unto the Wisconsin Central Railroad Company, its successors and assigns,

468 the tracts of land selected as aforesaid and described in the foregoing, yet excepting and excluding "all mineral lands," should any such be found to exist, in the tracts embraced in the foregoing descriptions.

To have and to hold the said tracts, with the appurtenances thereof, unto the said Wisconsin Central Railroad Company, its successors and assigns, forever.

In testimony whereof I, Rutherford B. Hayes, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this ninth day of January, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and second.

By the President:

[SEAL.] R. B. HAYES,
By B. L. LANG, *Secretary.*

S. W. CLARK,
Recorder of the General Land Office.

469 The United States of America to all to whom these presents shall come, Greeting:

Whereas by the act of Congress approved May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and a resolution explanatory of and in addition to said act, approved June 21, 1866, and an act authorizing change of line, approved March 3d, 1875, authority is given to the Wisconsin Central Railroad Company, a corporation existing under the laws of the State of Wisconsin, to construct a railroad under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the State of Wisconsin for the use and benefit of said railroad company "every alternate section of public land designated by odd numbers for ten sections in width on each side of said railroad;"

And whereas it is further enacted that "in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of, any sections or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, then so much land is set apart, to be selected for purposes aforesaid, nearest to the tier of sections above specified as shall be equal to the lands which the United

States have sold or otherwise disposed of or to which the right
470 of pre-emption or homestead has attached, provided that the lands to be so located shall in no case be further than twenty miles from the line of said road;"

And whereas it is further enacted by the seventh section of said act that when the Governor of the State of Wisconsin shall certify that any section of twenty consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, patents shall issue to said company for the lands thereby granted;

And whereas it is shown by certificates of the Governor of the State of Wisconsin bearing dates November 20th, 1872; August 16th, 1873; February 13th and 20th, 1874; December 29th, 1875 October 30th, November 15th, and December 27th, 1876, and maps therewith, now on file in the general land office, that the said Wisconsin Central Railroad Company has completed and equipped in the manner prescribed by said acts its line of road from Portage City to Ashland, in section fourteen, township forty-five north, range three west, fourth principal meridian;

And whereas certain tracts have been selected by Almanson Eaton, the agent for the Wisconsin Central Railroad Company, as shown by his original lists of selections bearing dates
471 May 23 and June 1st and 10th, 1878, and certified under same dates by the registers and receivers at Eau Claire, Wausau, and Bayfield, Wisconsin, the said tracts being described as follows, to wit:

North of base line and east of fourth principal meridian.

Township Thirty-nine, Range One.

The northeast quarter of section one, containing twenty-five acres and four-hundredths of an acre; the southwest quarter of section one, containing one hundred and sixty acres; the northwest quarter of the southeast quarter of section one, containing forty acres; the southeast quarter of the southeast quarter of section one, containing forty acres; the southeast quarter of the southeast quarter of section three, containing forty acres; the west half of section five, containing two hundred and eighty-one acres and fifty-two hundredths of an acre; the northeast quarter of section seven, containing one hundred and sixty acres; the lots numbered one, two, three, four, five, six, seven, eight, nine, ten, thirteen, fourteen, and fifteen of section seven, containing five hundred and fifteen acres and five-hundredths of an acre; the north half of section eleven, containing three hundred and twenty acres; the east half of the southwest quarter of section eleven, containing eighty acres; the northeast quarter of the southeast quarter of section eleven, containing forty acres; the west half
472 of the southeast quarter of section eleven, containing eighty acres; the northwest quarter of the northeast quarter of section thirteen, containing forty acres; the south half of the northeast quarter of section thirteen, containing eighty acres; the east half of

the northwest *west* quarter of section thirteen, containing eighty acres; the northwest quarter of the northwest — of section thirteen, containing forty acres; the northeast quarter of the southeast quarter of section thirteen, containing forty acres; the southeast quarter of the northeast quarter of section fifteen, containing forty acres; the northeast quarter of the southwest quarter of section fifteen, containing forty acres; the west half of the northwest quarter of section seventeen, containing eighty acres; the west half of the southwest quarter of section seventeen, containing eighty acres; the northwest quarter of the northeast quarter of section nineteen, containing forty acres.

Township Forty, Range One.

The southwest quarter of the southwest quarter of section one, containing forty acres; the south half of the northwest quarter of section three, containing eighty acres; the south half of section three, containing three hundred and twenty acres; all of section five, containing six hundred and thirty-six acres and ninety-two
473 hundredths of an acre; the northwest quarter of the northeast quarter of section nine, containing forty acres; the north half of the northwest quarter of section nine, containing eighty acres; the southwest quarter of the southwest quarter of section nine, containing forty acres; all of section eleven, containing six hundred and forty acres; the northeast quarter of the northwest quarter of section thirteen, containing forty acres; the west half of the northwest quarter of section thirteen, containing eighty acres; the northwest quarter of the northeast quarter of section seventeen, containing forty acres; the west half of the northwest quarter of section seventeen, containing eighty acres; the northwest quarter of the southwest quarter of section seventeen, containing forty acres; the lots numbered three, four, five, six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen, and eighteen of section nineteen, containing four hundred and twenty-three acres and twelve-hundredths of an acre; the southeast quarter of the northeast quarter of section twenty-one, containing forty acres; the northwest quarter of the northwest quarter of section twenty-one, containing forty acres; the south half of section twenty-one, containing three hundred and twenty acres; the southwest quarter of the northwest quarter of section
474 twenty-three, containing forty acres; the west half of the southwest quarter of section twenty-three, containing eighty acres; the southeast quarter of the southwest quarter of section twenty-three, containing forty acres; the east half of the southeast quarter of section twenty-five, containing eighty acres; the northeast quarter of section twenty-seven, containing one hundred and sixty acres; the east half of the northwest quarter of section twenty-seven, containing eighty acres; the northwest quarter of the northwest quarter of section twenty-seven, containing forty acres; the east half of section twenty-nine, containing three hundred and twenty acres; the east half of section thirty-one, containing three hundred and twenty acres; the lots numbered one, two, three, four, seven, eight, eleven

thirteen, eighteen, nineteen, and twenty of section thirty-one, containing four hundred and forty acres.

North of base line and west of fourth principal meridian :

Township Thirty-nine, Range One.

The northeast quarter of the southwest quarter of section thirteen, containing forty acres; the west half of the southwest quarter of section thirteen, containing eighty acres; the lot numbered two of section thirteen, containing sixty-one acres.

475 *Township Forty, Range One.*

All of section five, containing three hundred and fifty-three acres and two-hundredths of an acre; the northeast quarter of section eleven, containing one hundred and sixty acres; the west half of section eleven; containing three hundred and twenty acres; the west half of the southeast quarter of section eleven, containing eighty acres; all of section thirteen, township forty, range one, containing five hundred and eighty-six acres and sixty-six hundredths of an acre.

* * * * * * *

The said tracts as described on the foregoing pages numbered one to thirteen, inclusive, make the aggregate area (29,398.51) twenty-nine thousand three hundred and ninety-eight acres and fifty-one hundredths of an acre.

Now, know ye that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted, and by these presents do give and grant, unto the Wisconsin Central Railroad Company, its successors and assigns, the tracts of land selected as aforesaid and described in the foregoing, yet excepting and excluding "all mineral lands," should any
476 such be found to exist in the tracts embraced in the foregoing descriptions.

To have and to hold the said tracts, with the appurtenances thereof, unto the said Wisconsin Central Railroad Company, its successors and assigns, forever.

In testimony whereof I, Rutherford B. Hayes, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, this tenth day of August, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

By the President: R. B. HAYES.
[SEAL.] W. H. CROOK, *Secretary.*

S. W. CLARK,
Recorder of the General Land Office.

477 And afterwards, to wit, on the 28th day of July, A. D. 1885, the said appellants, by their attorneys, filed their certain no-

tice of argument herein in the words and figures following—that is to say:

Supreme Court, Seventh Judicial Circuit, State of Wisconsin.

WISCONSIN CENTRAL RAILROAD COMPANY, Plaintiff and Respondent,
against
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Defendants and Appellants.

Appeal from circuit court, Price county.

Please take notice that the appeal from the judgment of the circuit court in the above-entitled action will be brought on for argument at the next August term of the supreme court of the State of Wisconsin, to be held at the capitol, in the city of Madison, on the 2d Tuesday of August, A. D. 1885, at the opening of the court on that day, or as soon thereafter as counsel can be heard.

Dated Phillips, Wis., July 17th, 1885.

Yours, &c.,

WILLIS HAND, M. BARRY, AND A. R. MEAD,
Attorneys for Appellants.

To E. H. Abbot, attorney for respondent.

478 (Endorsed:) State of Wisconsin. In supreme court. Wis. Cent. R. R. Co., plaintiff and resp., *vs.* Price Co. *et al.*, defendants and app'l'ts. Notice of argument. Due service of a copy of the within notice admitted this 18th day of July, 1885. Edwin H. Abbot, attorney for respondent. Filed July 28, 1885. Clarence Kellogg, clerk sup. c't, Wis.

And afterwards, to wit, at the August term, A. D. 1885, of said court, on the twenty-ninth day of said term, to wit, on the 7th day of November, in the year aforesaid, the following proceedings were had—that is to say:

Price Circuit Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Respondent,
vs.
PRICE COUNTY *et al.*, Appellants.

And now at this day came the parties herein, by their attorneys, and the argument of this cause having been commenced by Messrs. Willis Hand and M. Barry for the said appellants, and by Messrs. D. S. Wegg and T. L. Kennan for the said respondent, and there not being now sufficient time to complete the cause, it is continued for further argument.

479 And afterwards, to wit, at the August term aforesaid of said court, on the thirty-first day of said term, to wit, on the 9th day of November, in the year aforesaid, the following further proceedings were had—that is to say:

Price Circuit Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Respondent,
vs.
PRICE COUNTY *et al.*, Appellants.

And now at this day came the parties herein, by their attorneys, and the argument of this case having been resumed and completed, and the court not being now sufficiently advised of and concerning its decision herein, took time to consider of its opinion.

And afterwards at the term aforesaid, on the thirty-fourth day of the term, the same being the first day of December, in the year aforesaid, judgment was rendered by said court in said cause in the words and figures following—that is to say:

Price Circuit Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Respondent,
vs.
PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Appellants.

480 This cause came on to be heard on appeal from the judgment of the circuit court of Price county and was argued by counsel; on consideration whereof it is ordered and adjudged by this court that the judgment of the circuit court of Price county in this cause be, and the same is hereby, reversed, with costs against the said respondent, taxed at the sum of two hundred and ten and $\frac{90}{100}$ ($210.90) dollars.

And that this cause be, and the same is hereby, remanded to the said circuit court, with directions to dismiss the complaint herein.

Upon the rendering of which said judgment the following opinion of the court, by Justice Cassaday, was filed in the words and figures following—that is to say:

481 STATE OF WISCONSIN:

Supreme Court.

WISCONSIN CENTRAL RAILROAD COMPANY, Respondent,
against
PRICE COUNTY *et al.*, Appellants.

This action was commenced April 10, 1884, to set aside the taxes levied and assessed on the lands described in the complaint in the year 1883 and to restrain the defendants from selling the same for the non-payment of said taxes, on the ground that none of said lands were liable to taxation in that year under the act of Congress of May 5, 1864, and the laws of this State. The answer, in effect, alleges that prior to January 1, 1880, the plaintiff had fully completed its railway and fully earned the lands in question, and

thereby became the equitable owner thereof and entitled to patents therefor. The cause was tried, and Feb. 18, 1885, the court found, in effect, as matters of fact: (1) That the lands described were all wild, unoccupied, and unimproved and situated in the town of Worcester, in the defendant county, and were a portion of the lands granted to the State by the third section of the act of Congress of May 5, 1864, for the purpose of constructing what is now the plaintiff's railway; (2) that 11-forties of the lands described were
482 situated within the ten-mile limits of said grant and all the rest within the indemnity limits and all in odd-numbered sections; (3) that all of said lands were assessed in said town in 1883 and put into the tax-roll and the amount of tax carried out against each respective piece, as stated in the complaint, but were not assessed to the plaintiff by name nor to any one else nor to "unknown," and none of the real estate included in the assessment-roll for that year was assessed to the owners thereof; that a warrant was attached to said tax-roll and the roll, with said warrant attached, placed in the hands of the town treasurer for collection; that the taxes were unpaid thereon, and the town treasurer returned the same to the county treasurer as delinquent; (4) that Feb. 25, 1884, the plaintiff received a patent from the State of all said lands, and thereby acquired the absolute title in fee to the same; that until then the plaintiff got no title to the lands and had no right to sell or convey the same; that until they were segregated and identified and the grant applied thereto the grant was "a float;" (5) that the plaintiff's right to the lands was in dispute between the State and the U. S.; that said lands and others were withheld from the State and the plaintiff by the Secretary of the Interior, and consequently the issuing of patents therefor by the U. S. delayed; that the plaintiff did not in any manner delay the issuing of patents therefor, but, on the contrary, was
483 diligent and persistent in its efforts to procure said patents from time to time; that the delay in their issue was caused entirely by the Government of the U. S. and the General Land Office, against the protest of both the plaintiff and the State and in spite of continued and unintermitted efforts made by both plaintiff and State to obtain their issue by the Interior Department; (6) that the lands described had at the time the taxes were levied and assessed thereon in 1883 been selected as lands to which said land grant applied, but said selections had not been approved by the Secretary of the Interior and had not been certified to the State, and had not in any manner been identified as the lands upon which the plaintiff would eventually receive patents, but, on the contrary, the Secretary of the Interior had refused to recognize the right of the State to the lands or to approve the selections so made; (7) that all the material allegations of the complaint were true. As conclusions of law the court found, in effect: (1) That it was not the intent and meaning of the act of Congress that said lands should be subject to taxation until they had been earned by the plaintiff and patented by the U. S.; that while these lands had been in truth earned by the plaintiff before the lands were assessed for taxation, yet the

plaintiff's right to the same and patents therefor had been denied by the Secretary of the Interior; that the plaintiff could not exercise control over them until it should be determined
484 whether it was entitled to receive patents for them as part of the lands granted; (2) that said lands were "a float" as long as the plaintiff's right thereto was not admitted and recognized by the Secretary of the Interior, but denied and disputed by him and patents therefor withheld by him against the will and request of the plaintiff, and hence during such time the lands were not subject to taxation by the State; (3) that said lands were not subject to taxation in 1883, and that the taxes levied and assessed thereon for that year were and are illegal and void and should be set aside for the reason that said lands were exempt from taxation during that year; (4) that said tax was a cloud upon the plaintiff's title to said lands, and it was, therefore, entitled to prevail and to the relief prayed for in the complaint. Upon such findings judgment in favor of the plaintiff perpetually restraining the defendants from collecting said taxes was entered, and from that judgment the defendants bring this appeal.

CASSODAY, *J.*:

By the act of Congress of May 5, 1864, certain lands were granted to the State to aid in the building of three separate lines of railway. 13 Statutes at Large, 66 ch., 80. The third section granted lands to the State in aid of what is now the plaintiff's line of road. The language of the section is, in effect, "that there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction" of said line of
485 road, "every alternate section of public land designated by odd numbers for ten sections in width on each side of said road; * * * but in case it shall appear that the U. S. have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of, any sections or parts thereof granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, that it shall be lawful for any agent or agents of said State appointed by the Governor thereof to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tier of sections above specified, as much public land in alternate sections or parts of sections as shall be equal to such lands as the U. S. have sold or otherwise appropriated or to which the right of pre-emption or homestead has attached as aforesaid, which lands (thus selected in lieu, &c.) shall be held by said State or by the company to which she may transfer the same for the use and purposes aforesaid." Section 7 provided, in effect, "that whenever the companies to which this grant is made or to which the same may be transferred shall have completed twenty consecutive miles of any portion of said railroads," &c., * * * patents shall issue conveying the right and title to said lands to the said company entitled thereto on each side of the road as far as the same is completed and coterminous with said completed section, not ex-

ceeding the amount aforesaid, and patents shall in like man-
486 ner issue as each twenty miles of said road is completed:
Provided, however, That no patent shall issue for any of said lands unless there shall be presented to the Secretary of the Interior a statement, verified on oath or affirmation by the president of said company and certified by the Governor, * * * that such twenty miles have been completed in the manner required by this act." Section 8 provided, in effect, "that the said lands * * * granted shall, when patented as provided in section seven of this act, be subject to the disposal of the companies respectively entitled thereto for the purposes aforesaid and no other." Section 9 provided, in effect, "that if said road * * * is not completed within ten years from the time of the passage of this act, as provided therein, no further patents shall be issued to said company for said lands and no further sale shall be made, and the lands unsold shall revert to the United States." That act was explained and enlarged by a resolution of Congress approved June 21, 1866, 14 U. S. Statutes at Large, 360. By an act of Congress approved April 9, 1874, the time for the completion of the road without reversion was extended to Dec. 31, 1876. 18 Statutes at Large, 28 ch., 82. It is undisputed that all the lands covered by section 3 of the act of Congress of May 5, 1864, were by several acts of the Legislature of this State granted to the predecessors of the plaintiff and finally to the plain-
tiff substantially upon the same terms and conditions named
487 in the acts of Congress. Among the conditions so imposed by the State was one to the effect that the title to the lands should not vest in the company sooner or faster than the lands might be sold, as provided and declared in the aforesaid act of Congress, but declared in effect that the company should be capable in law of taking and holding any land so granted which should be conveyed to it by such grant or deed or by the operation of law, and might also mortgage or pledge or otherwise dispose of all their right, title, interest, or claim therein of which it might be seized at the time of the execution of such mortgage, or which it might acquire subsequently thereto. §§ 8 & 11, ch. 314, P. & L. L. of 1866; §§ 9 and 12, ch. 362., P. & L. L., 1866, as amended by chapter 6, L., 1875. By a subsequent act it was declared in effect that whenever any railroad company in this State holding grants of land to aid in its construction had or should finish its said railroad or any section thereof and the same should be certified to the Secretary of the Interior by the Governor as completed in compliance with the several acts and resolutions of Congress and the acts of the Legislature of this State, and lists of said lands should be certified by the Secretary of the Interior to the State for such company, the Governor was
thereby authorized and directed to convey the same by deeds
488 to such company, which deeds, when so issued, should be *prima facie* evidence of title in all the courts and inure to the benefit of the company or its assigns and all persons claiming under it. Ch. 381, L., 1876. It is admitted that the plaintiff fully completed its road in compliance with all the requirements of the act of Congress and the Legislature as early as in June, 1877. The mere

fact that the road was not fully completed before Dec. 31, 1876, did not work a forfeiture of the grant. That could only be done by direct action by Congress or direct proceedings in court for that purpose before such completion. Schulenberg *v.* Harriman, 21 Wall., 62–'4; Van Wyck *v.* Knevals, 106 U. S., 368–'9. No such action has ever been taken by Congress nor in any court. It is also admitted that a statement thereof verified by the oath of the president of the company and certified to by the Governor was, upon such completion and during the year 1877, presented to the Secretary of the Interior. It is also conceded and virtually found by the court that prior to 1880 the plaintiff had duly selected the lands claimed by it under the grant, including all the lands in question; that such selections had been duly certified to by the United States land agents of the respective districts where the lands were situated and also by the Governor of the State, and a list of the lands so selected and so certified, including all the lands in question, had been presented to the Secretary of the Interior
489 and patents therefor been requested, but that the Secretary had refused to issue or allow such patents to be issued. It also appears from a letter addressed to the Secretary of the Interior, under date of Nov. 16, 1877, by the Commissioner of the General Land Office, at Washington, in the record before us, submitting list No. 8 of selection by the plaintiff for his approval, that it then appeared from the records in his office that out of the odd-numbered sections within the ten-mile limits of said road the United States had, prior to the passage of the land grant — of May 5, 1864, disposed of 789,622 acres, and after the passage of the act and prior to the definite location of the line the United States had disposed of 161,695.53 acres more; that, according to the practice of that office prior to the date of that letter, the plaintiff was entitled to lands from the indemnity limits in lieu of those disposed of prior to the passage of the act, as well as those disposed of after the passage of the act, but that it appeared from the decision of the Supreme Court of the United States in the case of Leavenworth, Lawrence & G. R. R. Co. *v.* United States, 92 U. S., 733, then recently published, that such practice of that office had been erroneous, and that indemnity could only be allowed for lands sold or disposed of by the United States after the passage of the granting act, and that, applying that rule to the grant in question, the plaintiff had already received
490 patents for 41,820 acres in excess of the indemnity authorized by the granting act. In response to that letter the Secretary of the Interior, under date of Dec. 26, 1877, sanctions the Commissioner's version of that decision and quotes at length from the opinion of Mr. Justice Davis in behalf of the majority of the Court in that case, and concludes by instructing the Commissioner, by reason of that decision, not to issue any further patents to the plaintiff, and to call upon it to relinquish its claims to the lands so patented in excess of what it was entitled to under the grant by such construction. From the decision of the majority of the Court in the case just cited Mr. Justice Field delivered a dissenting opinion, concurred in by Justices Swayne and Strong. Such refusal of Mr.

Schurz, the then Secretary of the Interior, to issue any further patents to the plaintiff or to the State by reason of the construction thus given to the granting act were frequently repeated and continued during his term of office, and the same ruling and construction were sanctioned and followed by his successor, Mr. Secretary Teller. None of these refusals were put upon any other ground than the one mentioned. There is no claim that any Secretary of the Interior ever refused to issue any such patents by reason of any of the lands in question being swamp lands or lands to which the right of pre-emption or homestead had
491 attached, or that any of them had been reserved for any other purpose or sold or disposed of to any other corporation or person, or that any other party was making any claim to the lands or any of them, or that there was any other ground for refusing such patents except as stated. Such being the facts, we must conclude that neither of the Secretaries found any fault with the selections made and certified, but, on the contrary, that they each recognized and acquiesced in such selections and would have issued such patents but for the reasons given. Since the decision of this case by the trial court the Supreme Court of the United States has announced its decision in Winona & St. Peter R. R. Co. *v.* Barney, 113, U. S. 618. In that case the Court was unanimous, and the opinion by Mr. Justice Field refers to the case of Leavenworth, L. & G. R. R. Co. *v.* United States, *supra*, as follows: "The language (of Mr. Justice Davis) in Leavenworth, Lawrence, &c., R. R. Co. *v.* U. S., 92, U. S. 733, is quoted as sanctioning the position of the appellant. The Court, speaking of the indemnity clause in the grant then under consideration, said its purpose was to give sections beyond the limits designated for those lost within it by the action of the Government between the date of the grant and the location of the road; but it did not say that this was its only purpose, and, if the language must be construed as meaning that, it was a mere *dictum*
492 not essential to the decision of the case. The question was what lands could be taken for indemnity, not for what deficiencies indemnity could be had, and it was held that an Indian reservation did not pass by the grant and could not be taken as indemnity for the lands otherwise lost from it. There was no question before the Court for what deficiencies indemnity could be supplied." After giving the reasons for a different construction than the one intimated by Mr. Justice Davis the learned justice said: "It follows that in our judgment the indemnity clause covers losses from the grant by reason of sales and the attachment of pre-emption rights previous to the date of the act as well as by reason of sales and the attachment of pre-emption rights between that date and the final determination of the route of road." The language in the act of Congress thus construed by that Court, which is the final arbiter of the question, is so nearly identical with the language in the act before us which we are now considering that we feel bound by the decision as an authoritative exposition of the law on the subject. From this decision we are forced to the conclusion that each of the learned Secretaries of the Interior named refused

to issue patents for the lands in question solely by reason of a misconception of what the Supreme Court of the United States had in fact decided some ten years ago in
493 the case mentioned. Did the mere fact of such refusal, based solely on such erroneous conception of the law, prevent the equitable title to the lands in question from becoming vested in the plaintiff so as to subject them to taxation? The language of the act of Congress was that of a present grant to the State, but with conditions, restrictions, and limitations preventing any title from being vested in the plaintiff except on performance of such conditions, &c. 21 Wall., 58–62; Tucker *v.* Ferguson, 22 Wall., 571–'2; Mo. R. R. Co. *v.* Kan. Pac. R'y Co., 97 U. S., 495–'6; R. R. Co. *v.* Baldwin, 103 U. S., 429. Upon the same terms it was granted to the plaintiff by the State. The grant operated as a law as well as a transfer of property to the State, and had such force as the intent of Congress required. *Id.*, 97 U. S., 497. After the definite location of the line of the road the equitable right to earn the undisposed-of lands became fixed in the plaintiff, and no valid adverse right to any such lands in the place limits could be subsequently acquired. Van Wyck *v.* Kenevals, 106 U. S., 360; Walden *v.* Kenevals, 114 U. S., 373. Yet, while any of such lands remained unearned the right of the plaintiff to the same was very much like the right of a vendee of specific lands in an executory contract. Kansas Pac. R. R. Co. *v.* Dunmeyer, 113 U. S., 641; Walden *v.* Kenevals, *supra*. The right of the plaintiff to lands earned, but situated in the indemnity limits, and not ascertained nor selected, was quite
494 similar, but attached to no specified lands. Ryan *v.* R. R. Co., 99 U. S., 382; Cedar Rapids, &c., R. R. *v.* Herring, 110 U. S., 38 *et seq.*; Kansas Pac. *v.* Atchison R. R., 112 U. S., 414. But as to lands within the place limits which had in fact been earned, and in respect to which all the requisite conditions had been fully complied with, such contract became executed, so far as the plaintiff was concerned, and hence it thereby became invested with an equitable right to the lands. West Wisconsin R. R. Co. *v.* Trempelean Co., 35 Wis., 258; S. C. Affirmed, 93 U. S., 595; Van Wyck *v.* Kenevals, 106 U. S., 360; Grinnell *v.* Railroad Co., 103 U. S., 742; S. C., 5, A. & E. R. R. Co., 447; Litchfield *v.* Webster, 101 U. S., 775; Cedar Rapids, &c., R. R. *v.* Herring, *supra*; Walden *v.* Kenevals, *supra*; Kansas Pacific *v.* Atchison R. R., *supra*. The same is true with respect to lands fully earned and duly selected from the indemnity limits and properly certified to and sanctioned by the requisite State and national authorities. *Id.* As soon as the plaintiff had acquired such complete equitable right to any specific lands the same could not be defeated by the Land Department at Washington issuing a patent therefor to some other party. Van Wyck *v.* Kenevals, *supra*; Walden *v.* Kenevals, *supra*; Cedar Rapids, &c., R. R. *v.* Herring, *supra*. There can be no doubt but what the plaintiff, prior to 1880, acquired such complete equitable rights to the eleven forties in the place limits. The same is true in respect to the lands
495 selected from the indemnity limits and certified and presented to the Secretary of the Interior as stated, unless the mere re-

fusal of the Secretary to issue patents therefor on the ground mentioned prevented such equitable rights from vesting in the plaintiff. The requisite fees and charges of the local land offices and the Department of the Interior seem to have been paid or in effect tendered by the plaintiff. There is no doubt but what the selections were made by the party designated by the law. True, the act of Congress declared that the selections should be "subject to the approval of the Secretary of the Interior." No objection having been made by that officer to the selections certified and presented to him, as stated, except on the ground mentioned, — must be regarded as equivalent to an acceptance by him of such selection, since it now appears that the only objection made was unfounded and that the plaintiff was then legally entitled to the lands. Thus it has been held that the receipt of the map definitely fixing the line of a proposed railway in that Department without objection must be "considered as equivalent to its acceptance." 114 U. S., 375. We are not aware of any decision of the Supreme Court of the United States nor of any intimation in any of the opinions of that Court precluding such approval by implication of the selections so made. In one of the cases above cited Mr. Justice Miller said: "As regards the lands to be selected in lieu of those lost by sale or other-
496 wise, it may be that no valid right accrues to any particular section or part of a section until the selection is made and reported to the Land Office, and possibly not then until the selection is approved by the proper officer." 103 U. S., 742. In a later case, above cited, the same learned justice quotes the same language, and adds: "It is not easy to see how rights can be vested in any particular section or sections of the latter class (indemnity lands) until it is ascertained how many of the original odd-numbered sections are thus lost and until the grantee has exercised his right of selection. * * * They (these latter) are not and cannot be made specific until the grantee's right of selection has been exercised." 110 U. S., 38–'9. These are the strongest expressions of opinion coming from that Court we have been able to find. The only objects Congress could have had in requiring the approval of the selections by the Secretary of the Interior were to insure selections "from the lands of the United States nearest to the tier of sections" in the place limits and to avoid as far as possible controversies with other adverse claimants, and thus render as certain as possible the description of the lands owned by the company which might otherwise be less certain. Here the lands were selected, and there is no claim that they were not "nearest to the tier of sections" in place, nor that there are any adverse claimants to any of the lands, nor that the plaintiff had not the equitable right
497 to all of the lands in question at the time of the levy and assessment of the taxes, but the right of taxation is resisted solely on the ground that up to the time of bringing this suit the plaintiff has been unable to procure patents of the lands from the General Land Office by reason of a mistaken notion as to the effect of a decision once made by the Supreme Court of the United States many years ago, but which mistaken notion can no longer be

entertained in view of the recent utterances of the same Court. We must hold that the Secretary of the Interior did, in effect, approve by implication of the selections made, certified, and presented to him as stated. If we are wrong in this we have the consolation of knowing that the error may corrected. It is not the United States that is attempting to impose the taxes in question, but the municipal instrumentalities of the State which conceded the plaintiff's equitable right to the lands. The mere fact that the lands in question were not held under patents from the United States did not prevent their being subject to taxation. Railway Co. *v.* McShane, 22 Wall., 444; Tucker *v.* Ferguson, 22 Wall., 527; Ross *v.* Outagamie, 12 Wis., 26; The Wisconsin Central R. R. Co. *v.* Taylor Co., 52 Wis., 51–'6; Witherspoon *v.* Duncan, 4 Wall., 210; Carroll *v.* Safford, 3 How., 441; S. C., 44, U. S. S. C. R., 441, & notes; Thompson *v.* Pacific R. R., 9 Wall., 579. The statutes declare that "taxes shall
498 be levied upon all property in this State except such as is exempted therefrom. The term of 'real property,' 'real estate,' and 'land' when used in title shall include not only the land itself, but all buildings, fixtures, improvements, rights, and privileges appertaining thereto. * * * The person holding the contract or certificate of sale of any real property contracted to be sold by the State, but not conveyed, shall be deemed the owner for such purpose." §§ 1034–'5, 1043, R. S. There is no claim that any of the lands in question are exempt by reason of § 1038 or any statute of this State. The special exemption given by ch. 21, L. 1876, the validity of which was sanctioned by this court, expired before the levy and assessment in question. The Wisconsin Central R. R. Co. *v.* Taylor Co., *supra.* In the language of the Supreme Court of the United States, "Congress has not seen fit, either expressly or by implication to impose any restriction upon the taxing power of the State. That subject was remitted, as under the circumstances it might well be, wholly to her wisdom and discretion." 22 Wall., 571–'2. In the case last cited it was in effect held that "the equitable or inchoate title of the company to the residue of the lands" was capable of being mortgaged and hence taxed. *Id.* We must hold upon principle as well as the authorities that the plaintiff's equitable right to patents for all the lands in question was complete prior to 1883, and hence the equitable title was then fully vested in it so as to subject
499 said lands to taxation in that year. Ross *v.* Outagamie, *supra;* Tucker *v.* Ferguson, *supra;* Witherspoon *v.* Duncan, *supra;* Wheeler *v.* Merriman, 30 Minn., 379; Gulf R'd Co. *v.* Morris, 13 Kansas, 317; Puget Sound Ag. Co. *v.* Pierce Co., 1 Wash. Ter. R., U. S., 159; Counties *v.* Lands, 28 Minn., 257; S. C., 5, A. & E. R. R. Cases, 404; Cornelius *v.* Kessel, 58 Wis., 237; Fowler *v.* Scott, decided herewith. The mere fact that the taxes were not assessed to the plaintiff by name nor to unknown is not a valid reason for sustaining this judgment. The statute simply requires that real property shall be entered in the name of the owner if known to the assessor, otherwise to the occupant thereof if ascertainable, and otherwise without any name." § 1043. The State *ex rel. v.* Blackstone, 63 Wis., 369.

The judgment of the circuit court is reversed, and the cause is remanded with directions to dismiss the complaint.

(Endorsements:) No. 111. August term, 1885. Wisconsin Central R. R. Co., respondent, against Price Co. *et al.*, appellants. Opinion by Cassoday, J. Filed Dec. 1, 1885. Clarence Kellogg, clerk sup. c't, Wis.

500 Ex. A.

State of Wisconsin, circuit court, Price county. Filed January 29, 1885. N. F. Norlin, clerk. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't, Wis.

"F." DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct.* 28, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed is a copy of so much of the diagram showing the limits of the withdrawal of lands for the benefit of the Portage, Winnebago and Superior, now Wisconsin Central, Railroad Company as relates to lands in townships 34 to 40 N. inclusive, Wisconsin; that I have compared said copy with the diagram on file in my office and used in the adjustment of the grant to the State of Wisconsin to aid in the construction of said company's railroad, and that such copy is a true copy of such diagram and of the whole thereof, so far as relates to lands in the townships above mentioned.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

(Here follows diagram marked p. 501.)

502 Ex. B.

State of Wisconsin, circuit court, Price county. Filed January 29, 1885. N. C. Norlin, clerk. Filed Jul. 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

WIS. CENT. R. R. CO. *vs.* PRICE CO. *et al.*

"F." DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct.* 28*th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed are copies, first, of a letter from the Secretary of the Interior, dated Nov. 9th, 1869, transmitting to this office three maps showing the location of the Portage, Winnebago and Superior railroad from Portage to Superior City, with the

endorsements thereon; second, of so much of the map showing the location of the above-named railroad from Stevens' Point to Bayfield, Wisconsin, as shows such location through townships 34 to 40, inclusive, and of the certificates thereon; that I have compared each of said copies with the original thereof on file in my office, and that each such copy is a true copy of such original and of the whole thereof so far as relates to the townships above mentioned.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

L. HARRISON,
Acting Commissioner of General Land Office.

503 State of Wisconsin, circuit court, Price county. Filed January 29, 1885. N. C. Norlin, clerk.

L'd-G't R'r'ds.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *Nov. 9th*, 1869.

SIR: I transmit herewith three maps showing the location of the Portage, Winnebago and Superior railroad from Portage City to Superior City.

You will issue the necessary instructions to the local officers to withdraw the granted lands.

Very respectfully, your ob't servant,

J. D. COX, *Secretary.*

Hon. Jos. S. Wilson, Commissioner of the Gen'l Land Office.

(Here follows diagram marked p. 504.)

505 Ex. C.

State of Wisconsin, circuit court, Price county. Filed Jan'y 29, 1885. N. F. Norlin, clerk. Filed July 17, 1885. Clarence Kellogg, clerk sup. c't Wis.

WIS. CENT. R. R. Co. *vs.* PRICE Co. *et al.*

"F." DEPARTMENT OF THE INTERIOR, T. R. B.
GENERAL LAND OFFICE, W. J. D.
WASHINGTON, D. C., *Oct. 28th*, 1884.

I, L. Harrison, acting Commissioner of the General Land Office, do hereby certify that the annexed, on pages one to fifteen, inclusive, are copies, first, of a letter, dated February 21st, 1874, from the Governor of Wisconsin to the Secretary of the Interior, stating that he had forwarded by express certificates showing the completion of the second, third, fourth, and fifth sections of the Wisconsin Central railroad north from Stevens' Point and the first section south of Ashland, Wisconsin; second, of the endorsements upon jacket covering said letter; third, of a letter, dated Mar. 19, 1874, from the Secretary of the Interior, transmitting to this office the

letter and certificates above mentioned; fourth, of the endorsements upon the jacket covering said letter of March 19, 1874; fifth, of so much of a map showing the line of route of the fifth section of twenty miles of the Wisconsin Central railroad as constructed as shows said line between the south line of township 34 N., range 1 E., and a point in section 13, township 36 N., range 1 E., with the certificates and endorsements thereon; sixth, of the certificate of the Governor of
Wisconsin, dated Feb'y 20, 1874, attached to the foregoing
506 map; seventh, of a letter, dated Dec. 26, 1876, from W. K. Mendenhall to the Secretary of the Interior, transmitting a map showing the line of route of the sixth section of the Wisconsin Central railroad as constructed north of Stevens' Point, Wis., with the endorsements thereon; eighth, of the endorsements upon the jacket covering said letter; ninth, of the map showing the line of route of the sixth section of twenty miles of the Wisconsin Central railroad as constructed from a point in section thirteen, township 36 N., range 1 E., to a point in lot 7 of section 19, township 39 N., range 1 E., Wis., with the certificates and endorsements thereon; tenth, of a letter dated May 20, 1878, from Charles L. Colby, stating that he has forwarded by express a properly certified map showing the completion of the seventh section—26 miles—of the Wisconsin Central railroad north from Stevens' Point; eleventh, of the endorsements upon the jacket covering said letter; twelfth, of so much of the map showing the line of route of the seventh section of the Wisconsin Central railroad constructed north from Stevens' Point as shows said line from a point in lot 7 of section 19, township 39 N., range 1 E., to a point on the north line of section 3, township 40
N., range 1 W., Wis., with the certificates and endorsements
507 thereon. I further certify that I have compared each of said copies with the original thereof on file in my office; that each such copy of said letters is a true copy of such original letter and of the whole thereof, and that each such copy of said maps is a true copy of such original map and of the whole thereof so far as relates to townships 34 to 40 N., inclusive.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] L. HARRISON,
Acting Commissioner of General Land Office.

508 State of Wis., cir. c't, Price Co. Filed Jan'y 29, 1885. N. F. Norlin, cl'k.

Department of the Interior, Feb. 24, 1874.

STATE OF WISCONSIN,
EXECUTIVE DEPARTMENT, MADISON, *Feb.* 21, 1874.

Hon. C. Delano, Sec. of the Interior, Washington, D. C.

DEAR SIR: I have this day sent you, by American Express Company, certificates as to the fact of the completion of sections (two) 2, three (3), four (4), and five (5) north from Stevens' Point, and section

one (1) south from Ashland, of the Wisconsin Central Railroad, for such action as you may see fit to take thereon.

Please acknowledge receipt of same and oblige,

Very respectfully, your ob'd't serv't,

W. R. TAYLOR, *Gov'r.*

509 State of Wis., cir. c't, Price county. Filed Jan'y 29, 1885.
N. F. Norlin, cl'k.

Land grant.
(Wisconsin Central.)
Department of the Interior.
Lands and railroads.
Received 24 Feb'y, 1874.
Dated 21 " "
From Governor of Wisconsin, Madison, Wis.
Subject:
Has sent by express certificates of completion of sections 2, 3, 4, & 5 north from Stevens' Point & sec. 1 south from Ashland, of the Wisconsin Central R. R.
Action:
—— —, 187–.
Respectfully referred to the Commissioner of the General Land Office. —— ——, chief clerk.
Registered 2–338. X.

510 DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *March 19th*, 1874.

SIR: I have considered the application of the Wisconsin Central Railroad Company to have patents issued to it for the lands claimed to belong to the company by reason of having constructed sections two, three, four, and five, of twenty miles each, north of Stevens' Point, and section one south from Ashland.

The certificates of the Governor of Wisconsin are unusual in form and were evidently made with a desire to avoid the responsibility of deciding whether the company had complied with the law of that State in reference to the building of the road from Portage City to Stevens' Point or whether it was entitled to patents or not and to shift that responsibility from himself to the Secretary of the Interior.

The action of the late Legislature of said State, embodied in the resolutions hereto attached, has imposed upon me the duty of determining whether the lands along the uncertified portions of the road are sufficient to insure its construction from Portage City to Stevens' Point.

511 In view of these resolutions and the doubt that still exists in my own mind of the rights of the road to any patents until it shall have constructed the road from Portage City to Stevens' Point, and of the uncertainty as to the sufficiency of the lands along the uncertified portions of the road to insure its construction between said points, I have determined to withhold patents from two

of the five sections certified to by the Governor and to direct patents to issue for any three of said five sections that the company may select, upon condition that the company shall agree to ask for no other patents for said road until it shall have built its road from Portage City to Stevens' Point in the manner required by law.

You are hereby directed to carry out the foregoing instructions.

I transmit herewith the certificates and other papers.

Very respectfully, C. DELANO, *Secretary.*

Hon. W. Drummond, Com'r G. L. Office.

512 State of Wis., cir. c't, Price county. Filed Jan'y 29, 1885. N. F. Norlin, cl'k.

Letter K, No. 93582. Hon. Sec. of the Interior, M'ch 19, '74. R. Return papers in the matter of the application of the Wisconsin Central R. R. Co. for patent, with directions. Cromweel & Buxton. Referred to Div. F.

Received (G. L. O.) M'ch 20, 1874. 2–200.

(Here follows diagram marked p. 513.)

514 & 515 [Arms of State.]

STATE OF WISCONSIN,
EXECUTIVE DEPARTMENT, MADISON, *Feb'y* 20, 1874.

To the Honorable the Secretary of the Interior:

I, William R. Taylor, Governor of the State of Wisconsin, do hereby certify that the Wisconsin Central Railroad Company, a corporation existing under the laws of the State of Wisconsin, has completed the fifth section of twenty continuous miles of railroad, beginning at station 4197+25 and continuing via northerly direction to station 5250+65, as shown upon the map hereto attached, supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turnouts, watering places, depots, equipments, furniture, and all other appurtainances of a first-class railroad.

And I further certify that said Wisconsin Central Railroad Company has built no road whatever from Portage City to Stevens' Point by way of Ripon and Berlin or otherwise.

In testimony whereof I have hereunto subscribed my name and caused the great seal of the State to be affixed this twentieth day of February, A. D. 1874.

[SEAL.] W. R. TAYLOR.

By the Governor:
PETER DOYLE,
Sec'y of State.

516 State of Wis., cir. c't, Price county. Filed Feb'y 29, 1885. N. F. Norlin, cl'k.

WASHINGTON, D. C., *Dec.* 26, 1876.

Hon. Z. Chandler, Sec'y of Interior.

SIR: I have the honor to enclose herewith map with certificate

of the Governor of Wisconsin showing the completion of the 6th section of 20 miles of road north from Stevens' Point, of the Wisconsin Central railroad.

I respectfully ask an acknowledgment of receipt of same.

Very respectfully, W. K. MENDENHALL,
Att'y Wis. Cent. R. R. Co.

(Endorsed:) M. 40776. Div. F #1. Department of the Interior, Dec. 26, 1876.

517 State of Wis., cir. c't, Price county. Filed Feb'y 29, 1885. N. F. Norlin, cl'k.

Wisconsin Central R. R.
M. 40776.
Department of the Interior.
Lands and railroads.
Received 26 Dec., 1876.
Dated " "
From W. K. Mendenhall, Washington, D. C.
Subject:
Transmits map with certificate of Gov. of Wisconsin showing 6th completed section of 20 miles of Wisconsin Central R. R. north of Stevens' Point.
Action:
Z. B. S. 26 Dec., 1876.
Ack'd & respectfully referred to the Commissioner of the General Land Office. N. Bell, chief clerk.
No answer—file with Wis. Cent. R. R. papers. G. A. S.
2 enc.
5–202.
Registered 2–356.
F. Dec. 27, 1876.

(Here follows diagram marked p. 518.)

519 Wisconsin Central Railroad Company, Charles L. Colby, President.

MILWAUKEE, WIS., *May* 20, 1878.

Hon. J. A. Williamson, Commissioner of Gen'l Land Office, Washington, D. C.

DEAR SIR: I enclose herewith an agreement, as required by the Secretary of the Interior, which will entitle the company to an approval of the lists for 30,000 acres of its grant, recently filed in the Warsaw, Eau Claire, and Bayfield offices.

I request that the rules of the Department, which requires that lists for approval shall remain on file five months before patent shall issue, may be set aside in this case.

I understand that the rule was adopted in order to give parties having adverse claims an opportunity to present proof of their claims and have them acted upon by the Dep't.

As the lands embraced in our lists were withdrawn from sale in

1869 all claims adverse to the title of this company must have been disposed of, & therefore the necessity for the rule no longer exists.

520 It is of the utmost importance that the company should receive patents for the lands embraced in these lists immediately, & I hope the usual five months' delay may be avoided.

I have sent you by express a map, properly certified by the Governor of Wisconsin & the chief engineer of the company, showing the completion of the 7th section—26 miles—north from Stevens' Point. This map, with those previously filed in the General Land Office, completes the line of route of the railroad from Portage to Stevens' Point & from Stevens' Point to Ashland.

Very respectfully, CHAS. L. COLBY, *President.*

Mr. Marble, solicitor of the Interior Dep't, drew up the agreement enclosed.

521 Letter M, No. 42547. Chas. Colby, Milwaukee, Wis.

Date: May 20, 1878.
Subject:
Transmits agreement of Wisconsin Central R. R. Co., as directed by the Sec'y of the Interior. Letter & agreement to Sec'y, with clear list, July 29, 1878. Also Mr. Colby's letter of 20 July. Eastlake. See N. 57646, from Secretary, approving list No. 9 and returning papers. Referred to Div. F, I. C. Received (G. L. O.) May 23, 1878. 1 Enc. 7, 168.

(Here follows diagram marked p. 522.)

523 WISCONSIN CENTRAL RAILROAD COMPANY, Respondent,

vs.

PRICE COUNTY and THE COUNTY CLERK and COUNTY TREASURER OF PRICE COUNTY, Appellants.

I, Clarence Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that the above and foregoing is a true and correct transcript of all the record and proceedings now on file and of record in my office, with all things concerning the same, in the above-entitled cause; that the original writ of error, the citation, with its service endorsed thereon, and a copy of the bond are appended to the return herein, and that they are all returned to the Supreme Court of the United States in obedience to the command of the writ of error hereto annexed.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Madison, this 24th day of August, A. D. 1886.

[Seal Supreme Court of Wisconsin.]

CLARENCE KELLOGG,
Clerk Supreme Court, Wisconsin.

524 STATE OF WISCONSIN, } ss:
Supreme Court, }

The return to the within writ appears by the schedule hereto annexed.

The return of the justices of the supreme court of the State of Wisconsin.

Attest: CLARENCE KELLOGG, *Clerk.*

Endorsed on cover: Wisconsin supreme court. No. 343. The Wisconsin Central Railroad Company, plaintiff in error, *vs.* Price County and The County Clerk and County Treasurer of Price County. Filed September 16, 1886.

Office Supreme Court U. S.
FILED.
OCT 22 1889
JAMES H. McKENNEY,
CLERK

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

NO. 76.

WISCONSIN CENTRAL RAILROAD CO.

v.

PRICE COUNTY ET AL.

IN ERROR TO THE SUPREME COURT OF WISCONSIN.

BRIEF FOR PLAINTIFF IN ERROR.

EDWIN H. ABBOT,
LOUIS D. BRANDEIS,
Attorneys for Plaintiff in Error.

JEREMIAH SMITH,
Of Counsel.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 76.

WISCONSIN CENTRAL RAILROAD CO.

v.

PRICE COUNTY ET AL.

IN ERROR TO THE SUPREME COURT OF WISCONSIN.

BRIEF FOR PLAINTIFF IN ERROR.

This is a suit by the Wisconsin Central Railroad Company against Price County, Wisconsin, and its officers, to enjoin all proceedings to enforce the collection of taxes assessed by that county for the year 1883, upon certain lands in the town of Worcester. The plaintiff contended that the lands were then still exempt from taxation under the act of Congress granting the same. The suit was commenced on April 10, 1884, in the Circuit Court for Price County; and a decree was there entered for the plaintiff in accordance with the prayer of the complainant. The judgment of the Circuit Court was reversed, upon exceptions, by the Supreme Court of Wisconsin, and the cause was remanded with directions to dismiss the complaint. The case comes to this court upon writ of error to the Supreme Court of Wisconsin.

STATEMENT.

The lands referred to in the complaint are all wild, unoccupied and unimproved, and are a portion of the lands granted to the State of Wisconsin, by act of Congress hereinafter mentioned, for the purpose of aiding in the construction of what is now the Wisconsin Central Railroad. The plaintiff claims title to the lands referred to in the complaint, under a patent from the State of Wisconsin, dated Feb. 25, 1884, such patent being by statute presumptive evidence of title.[1] (Record, folio 248–252.) That state acquired all its right to these lands from the United States by the act of Congress, May 5, 1864, and subsequent acts in explanation and amendment thereof. The patent of the State of Wisconsin was issued to the railroad company in pursuance of several statutes of that State hereinafter referred to.

The provisions of the Act of May 5, 1864, material to the present controversy, are as follows: —

SECT. 3. *And be it further enacted*, That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Doty's Island, or Fond du Lac, as said State may determine, in a northwestern direction, to Bayfield, and thence to Superior, on Lake Superior, every alternate section of public land, designated by odd numbers, for ten sections in width on each side of said road, upon the same terms and conditions as are contained in the act granting lands to said State to aid in the construction of railroads in said State, approved June three, eighteen hundred and fifty-six. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any sections or parts thereof, granted as aforesaid, or that the right of pre-emption or homestead has attached to the same, that it shall be lawful for any agent or agents of said State, appointed by the governor thereof, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tier of sections above specified, as much public land in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of pre-emption or homestead has attached as aforesaid, which lands (thus selected in lieu of those sold and to which the right of pre-emption or homestead has attached as aforesaid, together with sections and parts of sections designated by odd numbers as aforesaid, and appropriated as aforesaid) shall be held by said State, or by the company to which she may transfer the same, for the use and purpose aforesaid: *provided*, that the lands to be so located shall in no case be further than twenty miles from the line of said road.

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[1] Rev. Stats. Wisc. SECT. 4153. "Every patent which has been heretofore executed and delivered by the Commissioners of School and University Lands, or which shall hereafter be executed and delivered by the Commissioners of Public Lands, purporting to convey any land of any description, and every deed or patent which shall at any time have been executed and delivered by the governor, purporting to convey any lands granted to the State by the United States, to aid in the construction of railroads, or any swamp lands or overflowed lands, shall be received as presumptive evidence of the facts therein stated and that the grantee named therein became vested thereby at the date thereof with an absolute title in fee to the lands therein described."

SECT. 5. *And be it further enacted*, That the time fixed and limited for the completion of said roads, in the act aforesaid of June three, eighteen hundred and fifty-six, be and the same is hereby extended to a period of five years from and after the passage of this act.

SECT. 7. *And be it further enacted*, That whenever the companies to which this grant is made, or to which the same may be transferred, shall have completed twenty consecutive miles of any portion of said railroads, supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turnouts, watering places, depots, equipments, furniture, and all other appurtenances of a first-class railroad, patents shall issue conveying the right and title to said lands to the said company entitled thereto, on each side of the road, so far as the same is completed, and coterminous with said completed section, not exceeding the amount aforesaid, and patents shall in like manner issue as each twenty miles of said road is completed: *provided*, *however*, that no patent shall issue for any of said lands unless there shall be presented to the Secretary of the Interior a statement, verified on oath or affirmation by the president of said company, and certified by the governor of the State of Wisconsin, that such twenty miles have been completed in the manner required by this act, and setting forth with certainty the points where such twenty miles begin and where the same end, which oath shall be taken before a judge of a court of record of the United States.

SECT. 8. *And be it further enacted*, That the said lands hereby granted shall, when patented as provided in section seven of this act, be subject to the disposal of the companies respectively entitled thereto, for the purposes aforesaid, and no other, and the said railroads be, and shall remain, public highways for the use of the government of the United States, free from all toll or other charge, for the transportation of any property or troops of the United States.

SECT 9. *And be it further enacted*, That if said road mentioned in the third section aforesaid is not completed within ten years from the time of the passage of this act, as provided herein, no further patents shall issue to said company for said lands, and no further sale shall be made, and the lands unsold shall revert to the United States.

It does not appear that the Act of June 3, 1856, imposed any "terms and conditions" material to this inquiry other than those specified in the Act of May 5, 1864. The later act was explained and enlarged by a resolution of Congress approved June 21, 1866. By act of Congress, April 9, 1874, the time for completion of the railroad was extended to Dec. 31, 1876, and by act of Congress, March 3, 1875, a slight alteration in the line of the road was authorized. None of these acts made any change in the terms and conditions upon which the lands were granted.

All the lands covered by Sect. 3 of the act of Congress, May 5, 1864, were granted by the State of Wisconsin to the Portage and Lake Superior Railroad Company, and to the Winnebago and Superior Railroad Company by Acts of May 9 and 10, 1866, respectively. By the Act of April 29, 1869, the consolidation of these two railroad companies, under the name of the Portage, Winnebago and Superior Railroad Company, was authorized; and by the later Act of Feb. 4, 1871, the name of the consolidated company was changed to the Wisconsin Central Railroad Company.

The Portage, Winnebago and Superior Railroad Company duly filed the location of its road from Stevens Point to Bayfield, on Oct. 7, 1869 (Record, folio 252–258); and on Dec. 10, 1869, the United

States Land Commissioner withdrew from sale the odd-numbered sections of land within the twenty-mile limits along the line of the location of the railroad. (Record, folio 327, 328.) The railroad was built in sections of about twenty miles each, section six and portions of sections five and seven falling within the limits of Price County. Section five was completed in February, 1874 (Record, folio 514, 515); section six was completed in December, 1876 (Record, folio 516); section seven was completed in June, 1877. (Record, folio 113, 519.) The total number of acres in the odd-numbered sections along the line of the railroad, within the ten-mile limits, is 1,377,383.93. Of this number 789,622 acres had been disposed of by the United States before the passage of the Act of May 5, 1864, and 161,659.93 were disposed of after the passage of that act and before the filing of the location on Oct. 7, 1869.

The Wisconsin Central Railroad Company received from the United States, prior to Nov. 16, 1877, patents for 240,363.54 acres within the place limits, that is, within ten miles of either side of the location of the road, and patents for 203,459.62 acres of land within the indemnity limits, that is, between ten and twenty miles of the line of the road. (Record, folio 232–243.) On Jan. 9, 1878, the railroad company received from the United States a patent for 162,622 89 acres, and on Aug. 10, 1878, a patent for 29,398.51 acres, both patents covering land within the place limits. (Record, folio 450–476.) No other patents were received from the United States prior to the commencement of this suit, and none of these patents included the land upon which the taxes referred to in the complaint were assessed.

Of the land in question eleven forties lay in the place limits, the balance within the indemnity limits (Record, folio 334, 396). A list of selections of land within the place limits filed by the railroad company with the United States Land Office, at Eau Claire, Wis., on Dec. 5, 1876, claimed by the company on account of the sixth section of that portion of the railroad from Stevens Point to Bayfield, included, among other land, the eleven forties above mentioned. (Record, folio 412–420, 442–450.) The list of selections of land within the indemnity limits filed by the railroad company in the same land office on the 9th and 15th of December, 1876, claimed by the company on account of the same section of its railway, included the balance of the lands referred to in the complaint. (Record, folio 420–438.) Persistent demands were made by the railroad company from the time of the filing of these lists until after the trial of this cause for patents covering the lands referred to, but no patents were granted for any part of them. The history of these efforts to secure patents is thus stated by Mr. Edwin H. Abbot, the vice-president and general legal manager of the company, and is uncontradicted (Record, folio 114–124): —

"When the road was finished in June, 1877, and the plaintiff expected and was endeavoring to obtain the final issue of patents for all its grant, which it believed itself to have earned by the completion of the road, Secretary Schurz adopted for the Land Department at Washington the rule laid down in the opinion of Mr. Justice Davis in the Leavenworth, Lawrence and Galveston case, so called, whereby the opinion of the Supreme Court declared that grants of indemnity — that is to say, grants of land more than ten miles and within twenty miles of the accepted location of the road — were intended to furnish lands in lieu of those only which the United States should have sold within the granted limits — *i. e.*, the ten-mile limits — between the time when the grant was first made and the time when the lands had been withdrawn from market by the General Land Office, and therefore Secretary Schurz informed us that, instead of our being entitled to receive any more patents for lands, either in the granted limits or the indemnity limits, we had already received something like forty thousand acres of land more than the General Land Office considered us entitled to hold, and the Secretary personally informed me that he expected and required us to release to the United States from the lands already patented to us a very large amount of those lands which we had already received. He positively refused to issue to us any more patents for any lands, either in the limits of the lands in place — by which I mean ten-mile limits — or within the limits of the grants of indemnity — by which I mean the lands outside of ten and inside of twenty miles from the location as withdrawn from the records of the Land Office. We had many interviews with the Secretary of the Interior and the solicitor attached to the Department and the Commissioner of the General Land Office, and we were unable to adjust the matter, Secretary Schurz still insisting that under the terms of the original grant the railroad company had already received a great deal more land than the State of Wisconsin or it, as the donee, under Sect. 3, was entitled to receive. This direct refusal and issue having been made between us and the Interior Department, and we finding ourselves unable to obtain any lands whatever, we applied to the executive department of the State of Wisconsin. I personally had many interviews with Gov. Smith in the premises. He declared his inability as governor and the inability of the State to do anything to help us, excepting this: He offered to appoint me attorney for the State of Wisconsin to take such proceedings as I should deem wise and expedient in any court and before any tribunal or any department in order to obtain the lands which we had earned to be certified to the State of Wisconsin, in which case he declared that he could give us patents. Accordingly I was appointed by Gov. Smith attorney for the State of Wisconsin to act in this matter. I went to Washington and made claim upon Secretary Schurz, in the name of the State of Wisconsin, to have the lands which we had earned, which included all the lands covered by this action and a great many more, certified to the State of Wisconsin, if the Secretary was unwilling to order patents of the United States to be issued directly to the plaintiff. He refused absolutely to do so, denying the right of the State of Wisconsin to any lands in consequence of what we had done, beyond the amount of lands we had already received, and he also declared, as he had done before, that the amount of lands which we had already received were greatly in excess of those to which we were entitled. I then consulted with eminent counsel in Washington as to the legal possibility of maintaining a writ of mandamus against Secretary Schurz to compel him to certify those lists to the State of Wisconsin. I also examined, in consultation with eminent counsel, the various provisions which allowed original suits to be brought in the Supreme Court of the United States by the State of Wisconsin. But we all agreed, and finally Attorney-General Devens himself told me that it was useless to undertake to compel the Secretary to issue those patents or to certify the lists to the State of Wisconsin.

"I then endeavored to get Secretary Schurz to refer the question to Attorney-General Devens for advice as to what was the quantity of lands this Sect. 3 conferred upon the State of Wisconsin as trustee to convey to us. Secretary

Schurz for a long time refused to make such a reference in any case, and he absolutely refused to make any such reference in our particular case. Thus the matter stood for a long time.

"During the years 1877 and 1878 the great land-grant case entitled 'Madison and Portage Railroad Company *v.* The Treasurer of the State of Wisconsin and others,' in which all the different donees of all the grants from the United States of lands in Wisconsin were parties, came to a final argument before the full bench of the United States Circuit Court for the western district of Wisconsin. The litigation in this suit had been going on ever since December, 1874. The vital question in this case, which was fatal to the plaintiff's claim for lands for building the Madison and Portage Railroad, was the determination of the *quantum* of lands which passed by the general expression of the land-grant acts, namely, every alternate section of public land designated by odd numbers for ten sections in width on each side of said road. Secretary Schurz held that as to (*sic*) the amount of land granted by the grant in place was only the number of acres of land which the United States owned itself undisposed of at the date of the grant. The effect of that decision would be (instead of given [*sic*] as to the amount in place every odd section for ten sections in width — that is to say, six thousand four hundred acres to the mile) to give, perhaps, not more than five acres for a mile of railroad built. If the United States, for instance, owned at the time when the grant was made by Congress only five acres not previously disposed of, then Secretary Schurz held that the railroad took only five acres for building that mile of road; and if subsequently to the date of the grant the United States sold one of those acres before the lands were withdrawn from market, then, under the indemnity grant, the railroad would be entitled to receive only one acre in indemnity and no more. . . .

"The great question, therefore, in the Madison and Portage Railroad case at its threshold was, how much land was covered by the granting clause? That case was argued by the most eminent counsel in the State of Wisconsin. . . . Mr. S. U. Pinney, of Madison, contended that Secretary Schurz's ruling was right. On the other hand, Col. Vilas, Mr. I. C. Sloan, J. C. Spooner, A. Scott Sloan, and myself contended that the rule laid down by Secretary Schurz was wrong. The arguments were made in September, 1879. The Court held that question under advisement for a considerable time, and finally Mr. Justice Harlan, on the twenty-eighth day of October, 1879, filed an opinion in that court, in which he decided against the ruling of Mr. Secretary Schurz. This decision was the first decision by any United States court directly upon this question, and adversely to what the counsel have always contended were the dicta of Mr. Justice Davis in the Leavenworth, Lawrence and Galveston case, but which Secretary Schurz contended was the opinion of the Court and not the dicta of the justice who read the opinion. When this Madison and Portage decision was made I renewed my efforts in the Interior Department to get Secretary Schurz to adopt the rule laid down in that case by Mr. Justice Harlan. . . . Finally, after Justice Harlan had given this decision, I renewed my application, as I have stated, to the Interior Department to reverse the practice established by Mr. Secretary Schurz, which was fatal to the claim, either of the State of Wisconsin or the plaintiff, to any more lands; and so many other railroads were interested in the same question that finally Secretary Schurz was induced to refer the question to Attorney-General Devens for his action. The case in which Mr. Devens was to give his opinion was in the matter of the right of the State of Minnesota to receive from the United States under similar acts, for the benefit of the Western Railroad, the full quantity of ten sections per mile of public lands along the line of the constructed road. On the 5th of June, 1880, Attorney-General Devens gave an opinion to the Hon. Carl Schurz, which is undoubtedly reported in the opinions of the Attorney-General, in which he advised the Secretary that his practice should be abandoned and the Department should recur to the rule and method of administering the railroad grants which had obtained prior to Mr. Schurz's coming into office, March, 1877. Prior to Attorney-General Devens giving that opinion I learned that the question was before him. I at once

applied for leave to be heard in behalf of the State of Wisconsin and as its authorized attorney, and to argue in the matter of the quantity of land which passed to the State of Wisconsin under the third section of our land-grant act. In accordance with my request, Attorney-General Devens allowed me to submit a printed argument for and in behalf of the State of Wisconsin, a copy of which I now produce. . . . This argument of mine brought before Attorney-General Devens the Madison and Portage Railroad decision of Mr. Justice Harlan, and I filed with the Attorney-General a certified copy of Justice Harlan's decision, and great stress is laid by the Attorney-General in his letter of advice to Secretary Schurz upon the decision of Mr. Justice Harlan in the Madison and Portage Railroad case. Secretary Schurz did not accept the opinion of Attorney Devens in the particular case, in which he had called for advice — that is, the Minnesota case — until the sixteenth day of October, 1880, and then he permitted it to be adopted in that particular case; but he still refused to make any general rule or allow us to take our patents under Sect. 3, but left substantially the whole matter of indemnity lands undisposed of when he went out of office.

"When the new administration came in, in 1881, the new Secretary of the Interior rejected the opinion of Attorney-General Devens and refused to permit the Land Office to act in accordance with it, and Secretary Teller during the whole time of his administration has insisted upon the same rule which Secretary Schurz had adopted prior to the sixteenth day of October, 1880; in other words, he refused to issue patents to us either in indemnity limits or in granted limits. The whole question of the *quantum* of grant, which is discussed by Justice Harlan and Attorney-General Devens in the opinion I have just referred to, was again argued by me very elaborately in conjunction with the counsel of the Atchison, Topeka and Santa Fé Railroad Company in a case arising under their grant, and a very full and complete printed brief was filed with Secretary Teller at that time. This last argument was held in the early summer of 1883; but Secretary Teller still refuses to act on our application and still refused patents to us and refuses to decide the question of the right of the State of Wisconsin, as well as our right to any patents.

"When I first discovered that the defendant in this case had undertaken without any notice to us to assess taxes upon these lands, — a fact which was entirely unknown to me or to any of our Land Department officials until a comparatively few months,— I again went to Washington and urgently pressed the Secretary to issue patents to us and to settle the question finally; but he absolutely refused to take up the matter, either in regard to grant in place or grant in indemnity, and he asserted the right of Congress to forfeit our entire grant because the Wisconsin Railroad had not been entirely finished prior to the thirty-first day of December, 1876; and inasmuch as bills were pending and had been pending in Congress for the last session or two to forfeit the grant of the Wisconsin Central Railroad, as well as many other land-grant roads, he absolutely declined, until Congress should have settled this matter of forfeiture, to take any action whatever in regard to our application. He would neither approve lists of lands nor give any ruling, but simply left the matter undecided, and we could not compel him to act or the General Land Office to act. The excuse he gave was nominally that the matter could not be taken up yet. We have continued our efforts at Washington and employed counsel, and I have personally given great attention and taken great trouble in this matter, but have as yet failed altogether to induce the Interior Department to perform what I believed to be its duty under our land-grant acts, acting in the name and behalf of the State of Winconsin as its authorized attorney.

"Finding that it was impossible to get any action under the course of procedure which had hitherto been adopted by the State of Winconsin and ourselves in reference to the patenting of lands to us under the grant, we made a desperate appeal to Gov. Rusk to give us a patent from the State, although the United States had not given us any patent. Previous to this time the State of Wisconsin had always refused to give us any patents for lands which had not been previously patented to us by the United States. The patent from

Gov. Rusk was obtained only after long and repeated arguments, in which I was assisted by eminent counsel; and finally the reason on which they were given to us was, as the governor expressed it, the manifest injustice of allowing parties to go in under the color of tax title when we had no legal status to interfere with them, and of permitting them to strip the lands of timber simply because we had no standing in court to turn them out.

"That is the general history of our efforts to obtain patents for our lands."

The application to the State of Wisconsin for a patent for lands was filed Feb. 21, 1884 (Record, folio 171), and the patent, which included the lands referred to in the complaint, was granted Feb. 25, 1884. (Record, folio 248–252.) Upon the filing of this application, a careful examination by the Wisconsin officials of the selections made became necessary; among other reasons, because many of the parcels were claimed by the State as swamp lands. (Record, folio 160–166.) As was stated by L. J. Russ, the governor's private secretary: —

"There had been previous to this time a conflict between the Wisconsin Central and the Chicago, St. Paul, Minneapolis and Omaha Railway Company as to a portion of the grant. After these applications were filed in the governor's office each separate description included in the application was examined to determine whether the State had any interest in or claim to the land described.

"It took three or four days on those two lists to make the examination above mentioned, I should think. It might have taken more time after the examination was taken up making patents, and then after they were made they had to be gone through with three times or thereabouts. This was not all done in four days. It took, besides myself, most of the time three clerks. The plaintiff had no means of knowing what lands they would get until the patents were made, so far as I know. The plaintiff was urging the governor to issue patents. The governor refused to issue patents on many of the lands claimed by plaintiff. What he refused to grant patents on would make a large list."

Meanwhile, in 1883, the taxes were assessed on the eleven forties of place lands and on such of the indemnity lands in the town of Worcester as had been selected by the railroad company, although the Secretary of the Interior and the Land Commissioner had steadfastly denied the right of the railroad company to patents for these or any other lands.

There is no controversy concerning the facts of the case, the following conclusions of fact specifically found by the trial judge (Record, folio 72–77) being adopted in substance by the Supreme Court of Wisconsin. (Record, folio 481–485.)

"*First.* That all the lands described in the plaintiff's complaint are wild, unoccupied and unimproved, and are situated in the town of Worcester, county of Price, and State of Wisconsin, and are a portion of the lands granted to the State of Wisconsin by the third section of the Act of May 5, 1864, hereinafter referred to, for the purpose of aiding in the construction of what is now the Wisconsin Central Railroad.

"*Second.* That eleven (11) of the "forties" of the land described in the plaintiff's complaint are situated within the ten-mile limits of said grant, and all the rest of the lands described in the plaintiff's complaint are situated within the indemnity limits of said grant, and are all located in the sections designated by odd numbers.

"*Third.* That all of said lands were assessed in said town of Worcester in 1883, and put into the tax-roll, and the amount of tax carried out against each respective piece, as set forth in the plaintiff's complaint, but said lands were not assessed to the plaintiff nor any one else, nor to "unknown," and none of the real estate included in the assessment roll for that year was assessed to the owners thereof; that a warrant was attached to said tax roll, and the roll, with said warrant attached, placed in the hands of the town treasurer of said town of Worcester for collection; that the taxes levied and assessed on said lands were unpaid, and the town treasurer of the said town of Worcester returned the same to the county treasurer of Price County as delinquent, as set forth in the plaintiff's complaint.

"*Fourth.* That the plaintiff received a patent from the State of Wisconsin, bearing date Feb. 25, 1884, whereby the State conveyed to it all of the lands described in the plaintiff's complaint, which patent is by our statute made presumptive evidence of the facts therein stated, and that the grantee named therein became vested thereby at the date thereof with absolute title in fee to the lands therein described; that, according to the true intent and meaning of said act of Congress of May 5, 1864, entitled "An Act granting lands to aid in the construction of certain railroads in the State of Wisconsin," and of the various acts of the Legislature of the State of Wisconsin conferring said grant upon the plaintiff, the plaintiff took no title to said lands and had no right to go into possession of or sell and convey the same until it should receive patents therefor, and it was not the intent and meaning of said act of Congress that the plaintiff should take or have any taxable interest in said lands until it had earned the same by building the railroad contemplated by said third section in accordance with the terms of said act of Congress and of the acts of the Legislature aforesaid, and that the plaintiff did not even then acquire any taxable interest in or to any specific lands until the grant had been applied thereto and said lands had been segregated from the public domain; that until they were segregated and identified and the grant applied thereto the grant was a "float."

"*Fifth.* That the plaintiff had no means of identifying any particular lands which it would finally receive for the building of said road until it received patents therefor, as the Commissioner of the General Land Office and the Secretary of the Interior Department of the United States had jurisdiction and a supervising control over the matter, and might approve or reject the selection made by the plaintiff and might allow conflicting claims to said lands; that more than one half of all the lands in the odd-numbered sections within the ten-mile limits had been disposed of by the general government before and after May 5, 1864, the date of the original grant, and before September, 1869, the time when the grant was withdrawn from the market by the General Land Office; that the construction to be given to said act of Congress was in doubt and unsettled, and the quantity of land granted to the State by said act for the benefit of the plaintiff was undetermined by the Secretary of the Interior and was in dispute between the State and the United States, and the lands described in the complaint in this action, together with a large quantity of other lands, as well as the patents therefor, were withheld from the State and the plaintiff by the Secretary of the Interior, and the issuing of patents to the plaintiff was delayed by the action of the United States government in consequence therefor; that the General Land Office of the United States had exclusive control, in the first instance, and the sole power to determine how much and what lands the plaintiff was entitled to receive under said act of Congress, and to decide all conflicting claims thereto; that the plaintiff did not in any manner delay the issuing of patents to it, but, on the contrary, was diligent and persistent in its efforts to procure said patents from the time when its railroad was finished down to the time when said patents were issued; that the delay in their issue was caused entirely by the acts of the government of the United States and the General Land Office, against the protest of both the plaintiff and the State of Wisconsin, and in spite of continued and unintermit-

ted efforts made by both plaintiff and State to obtain their issue by the Interior Department.

"*Sixth.* That the lands described in the plaintiff's complaint in this action had, at the time the taxes were levied and assessed thereon in 1883, been selected as lands to which said land grant applied; but said selections had not been approved by the Secretary of the Interior, and had not been certified to the State of Wisconsin, and had not in any manner been identified as lands upon which the plaintiff would eventually receive patents. On the contrary, the Secretary of the Interior refused to recognize the rights of the State of Wisconsin to said lands or to approve the selections so made.

"*Seventh.* That all the material allegations in the plaintiff's complaint are true."

ASSIGNMENT OF ERRORS.

The learned Supreme Court of Wisconsin erred: —

I. In holding that the plaintiff had in 1883 such title to the lands as rendered them subject to taxation by the State.

II. In holding that the Secretary of the Interior did "in effect approve by implication of the selections [of indemnity lands] made, certified and presented to him" by the plaintiff.

III. In holding that in spite of the denial by the government of the plaintiff's claim of title to lands and its refusal to allow the plaintiff the enjoyment thereof, the plaintiff had acquired such a perfect equitable title to the same as rendered them taxable.

IV. In holding that the lands were not in 1883 exempt from taxation under the provisions of acts of Congress, May 5, 1864, and Aug. 6, 1856.

POINTS AND AUTHORITIES.

I.

As the plaintiff claimed that the lands were exempt from taxation under the acts of Congress of May 5, 1864, and Aug. 6, 1856, and as that immunity specially set up and the construction of the act contended for by the plaintiff in error were denied by the Supreme Court of Wisconsin, this court has jurisdiction upon writ of error.

Rev. Stats. of U. S., Sect. 709.
See Railroad Company *v.* Prescott, 16 Wall. 603 [1872].

The judgment of the Supreme Court of Wisconsin was a final one within the meaning of the Judiciary Act.

Mower *v.* Fletcher, 114 U. S. 127 [1885].

II.

A State has no power to interfere with the primary disposal of the public domain, or to tax the property of the United States within its borders.

Van Brocklin *v.* Tennessee, 117 U. S. 151 [1886].

This fundamental rule has been expressly affirmed both by the Constitution of Wisconsin and the act of Congress admitting that State into the Union.

Act of Congress, Aug. 6, 1846.
Constitution of Wisconsin, Act II., Sect. 2.[1]

III.

All of the public domain within the State remains exempt from taxation, except so far as the United States has voluntarily parted with its title to the same, which act of segregation is ordinarily evidenced by the issue of a patent.

McGoon *v.* Scales, 9 Wall. 23 [1869].

IV.

The only exception to this proposition is found in the rule that where the United States has by contract or statute undertaken to

[1] "It is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same by the United States. . . . No tax shall be imposed on land, the property of the United States."

grant away its interest in any part of the public domain, and (1) the land has been identified, (2) all acts have been done to entitle the grantee to a legal conveyance of the land, and (3) his right thereto has been recognized by the United States, so that he is at liberty to enter upon the full enjoyment thereof, then the mere fact that there has been delay on the part of the government in the issue of a patent, will not prevent the land from becoming taxable as property of the grantee.

Carroll *v.* Safford, 3 How. 441, 460 [1845].
Witherspoon *v.* Duncan, 4 Wall. 210, 218, 219 [1866].
Astrom *v.* Hammond, 3 McLean, 107 [1842].
Carroll *v.* Perry, 4 McLean, 25, 27 [1845].
Coleman *v.* Peshtigo Lumber Co., 30 Fed. Rep. 317 [1887].
Wallace *v.* Seymour & Rennick, 7 Ohio, 156 [1835].
Gwynne *v.* Niswanger, 15 Ohio, 367 [1846]; 20 Ohio, 556 [1851].
Matthews *v.* Rector, 24 Ohio St. 439 [1873].
Stockdale *v.* Webster Co., 12 Iowa, 536 [1861].
Iowa Homestead Co. *v.* Webster Co., 21 Iowa, 221 [1866].
Railroad *v.* Webster Co., 21 Iowa, 235 [1866].
C. B. & Q. R. R. *v.* Holdsworth, 47 Iowa, 20 [1877].
Iowa R. L. Co. *v.* Fitchpatrick, 52 Iowa, 244 [1879].
Vinton *v.* Cerro Gordo Co., 72 Iowa, 155 [1887].

See People *v.* Shearer, 30 Cal. 645 [1866].
Donovan *v.* Kloke, 6 Neb. 124 [1877].

V.

This exception is based upon the broad principle of justice that he who has the undisputed right and the undisturbed enjoyment of property shall not be permitted to use the barren legal title of the government to shield himself from bearing his just share of State taxation.

Davis, J., in Witherspoon *v.* Duncan, 4 Wall. 210, 218 [1866].
Wright, J., in Stockdale *v.* Webster Co., 12 Iowa, 536, 538, 539 [1861].

VI.

But in order to render the land taxable, all these elements must concur or the property in the land will remain in the United States in such a sense as to render it exempt from State taxation. Consequently,

(1.) Unless the land be identified and thus segregated from the

mass of public land, it will not be taxable, although the other conditions to the vesting of the right to it have been performed.

Miller, J., in Sioux City, etc., Ry. *v.* Chicago Ry., 117 U. S. 406, 408 [1886].
Miller, J., in St. Paul Railroad *v.* Winona Railroad, 112 U. S. 720 [1885].
Field, J., in Barney *v.* Railroad Co., 117 U. S. 228, 232 [1886].
Railroad Co. *v.* Woodbury Co., 29 Iowa, 247 [1870].
Cedar Rapids & Missouri R. R. Co. *v.* Carroll Co., 41 Iowa, 153 [1875].

(2.) Unless every act made a condition to the perfect right to the land has been performed, the land will not be taxable, although the grantee have the full enjoyment of it, and the delay in the performance of the condition be attributable to him.

Railroad Co. *v.* Prescott, 16 Wall. 603 [1872].
Railroad Co. *v.* McShane, 22 Wall. 444 [1874].
Northern Pacific R. R. Co. *v.* Traill Co., 115 U. S. 600 [1885].

See also,

Hunnewell *v.* Cass Co., 22 Wall. 464 [1874].
Colorado Co. *v.* Commissioners, 95 U. S. 259 [1877].
Lamborn *v.* County Commissioners, 97 U. S. 181 [1877].
Railroad Co. *v.* Commissioners, 98 U. S. 541 [1878].
People *v.* Shearer, 30 Cal. 645 [1866].
Central Pacific Ry. Co. *v.* Howard, 51 Cal. 229 [1876].
Long *v.* Culp, 14 Kansas, 412 [1875].
White *v.* Railroad, 5 Neb. 393 [1877].
Elling *v.* Thexton, 7 Mont. 330 [1888].
Musser *v.* McRae, 38 N. W. Rep. (Minn.), 103 [1888].

(3.) Unless the claimant's right to the land has remained undisputed and the beneficial enjoyment was undisturbed by the United States, the land was not taxable, although it be subsequently established that the full right in the claimant to the legal conveyance of the land by the government at all times existed.

Dickerson *v.* Yetzer, 53 Iowa, 681 [1880].
Doe *v.* Iowa R. R. Land Co., 54 Iowa, 657 [1880].
Grant *v.* Iowa R. R. Land Co., 54 Iowa, 673 [1880].
Iowa R. R. Land Co. *v.* Fitchpatrick, 52 Iowa, 244 [1879].
Central Pacific R. R. Co. *v.* Howard, 52 Cal. 227 [1877].

VII.

The indemnity lands, referred to in the bill of complaint, were not taxable in 1883, because their selection had never been approved by the Secretary of the Interior.

(1.) Such approval was necessary.

See Argument, pp. 20–27.

(2.) There was no evidence of approval, in fact, and the circumstances did not establish an approval by implication of law.

See Argument, pp. 28–33.

(3.) There was no waiver of the prerequisite of approval.

See Argument, pp. 34–40.

VIII.

Neither the indemnity lands nor the place lands referred to in the bill of complaint were taxable by the State in 1883, because the right of the railroad company to the land and the liberty to enjoy the same were then denied by the United States.

The error of the learned Supreme Court of Wisconsin in overlooking this ground of immunity from taxation is, doubtless, to be ascribed to: —

(1.) A failure to distinguish between the established rights of one in whose favor the government has, by issuing the final certificate, made a declaration of trust creating an equitable title with rights as definite as upon a legal title, and that of the plaintiff who, instead of an "equitable title," or rights in the land, had at most an "equity" *to* it.

See Argument, pp. 41–46.

(2.) A misapplication of the maxim, "equity will consider as done what ought to be done."

See Argument, pp. 47–52.

This maxim was inapplicable to the facts in the case at bar, for

(*a.*) It can only be invoked between the parties in whose favor and against whom the equity exists.

The State of Wisconsin, being a third party, cannot invoke it.

See Argument, p. 47.

(*b.*) A court of equity considers as done, only what it could and would enforce, and not all that it would deem equitable. The

power to enforce "rights," as against the United States, in regard to the public domain, being denied to the courts, no "equity," in its proper sense, exists, because an equity means an equitable remedy.

See Argument, pp. 48, 49.

(*c.*) The maxim can be invoked only in aid of justice and not for its defeat.

See Argument pp. 49, 50.

IX.

The doctrine of relation cannot be invoked to render valid the taxation of the land.

See Argument, pp. 53–56.

X.

The doctrine of grants *in præsenti* cannot be invoked to render valid the taxation of the land.

See Argument, pp. 57–60.

XI.

It will scarcely be contended that the plaintiff must fail for lack of the necessary interest in the land to enable it to maintain this suit, or that the bill lacks equity; for,

(1.) No such objections having been taken in the State court, they are not open to defendants in this court.

Murdock *v.* Memphis, 20 Wall. 590, 636 [1874].

On the contrary, the right of plaintiffs to maintain the bill, if the assessment was invalid, was virtually admitted by defendant's answer.

See Record, fol. 23.

(2.) The patents issued by the governor of Wisconsin are, by statute, made presumptive evidence of absolute title in the patentee on the day of their date.

Rev. Stats. Wisc. (1878), Sect. 4153.

That statute must control in a cause brought in a court of Wisconsin and where defendant claims under authority from that State.

(3.) Irrespective of the State patent the plaintiffs had such an interest in the land as to justify them in applying to a court of equity to prevent a sale for taxes.

Pike *v.* Wassell, 94 U. S. 711, 715 [1876].

(4.) The suit could doubtless be sustained, under the Wisconsin statute extending the scope of the equitable doctrine of removing clouds upon title.

Rev. Stats. Wisc. [1878], Sect. 3186.

(5.) The tax proceedings not being void upon their face, the facts present a proper case for the application of the doctrine of removal of clouds upon title.

Comp.

Union Pacific Railway *v.* Cheyenne, 113 U. S., 516, 525, 527 [1885].
R. R. Co. *v.* Prescott, 16 Wall. 603 [1872].
R. R. Co. *v.* McShane, 22 Wall. 444, 448 [1874].
Northern Pac. R. R. *v.* Traill Co., 115 U. S. 600 [1885].

ARGUMENT.

In 1883, when the taxes, of which the plaintiff seeks to enjoin the collection, were assessed, no patent whatever had been issued for the lands. The legal title, and *prima facie* therefore the full property, then remained in the United States, and was exempt from taxation. On Feb. 25, 1884, plaintiffs received a patent for the lands from the State of Wisconsin, such patent being made by statute presumptive evidence that at its date the plaintiff became vested with an absolute title in fee to the lands therein described. In April, 1884, this suit was commenced. The burden, therefore, rests upon the defendants to establish the taxability of the lands in 1883.

To sustain this burden defendants must establish that the lands were not in 1883 the "property of the United States." If the word "property" be taken in its strict sense, they cannot maintain such position, since the law in referring to property ordinarily considers the legal title only.[1] But defendants seek to bring themselves within a well established exception to the rule exempting public property from taxation, the exception which declares that where all things necessary to entitle a private individual to a patent for land have been performed, and the United States has parted with all its interest therein, mere delay in the execution of the patent will not prevent the land from becoming taxable as private property.

In order to bring themselves within this exception, the defendants prove that the plaintiffs had, prior to 1883, built the railroad and thereby "earned the right" to the eleven forties of land within the place limits, and also a right to a quantity of land within the indemnity limits, and that they had filed in the Land Office lists, selecting among others, as their due, the specific land now taxed. But defendants do not prove that the Secretary of the Interior did, in point of fact, ever approve of the selections made in the indemnity limits. It appears, on the contrary, that the several Secretaries of the Interior denied the right of the plaintiff to have patents, not merely for these, but for any more indemnity lands; that the United States declined to issue patents for the eleven forties of place lands, because it claimed the plaintiff had already received patents for more indemnity lands than they were entitled to; and that plaintiff was denied the right to the beneficial enjoyment of the lands, in spite of its persistent efforts for more than six years to secure the allowance by the United States of its claims to additional land.

These facts do not bring any of the land within the exception to the law of immunity: —

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[1] Miner *v.* Pingree, 110 Mass. 47 [1872].

A. The lieu lands were exempt from taxation, because their selection had never been approved by the Secretary of the Interior, without whose approval they could not be identified and segregated from the public domain.

B. Both lieu lands and place lands were exempt from taxation because the United States refused to part with its interest in the lands, and not merely disputed the claim of the plaintiff to them, but also denied to the plaintiff the enjoyment thereof.

A.

The indemnity lands were exempt from taxation because their selection was not approved by the Secretary of the Interior.

I. THE NECESSITY OF SUCH APPROVAL.

The act of Congress, May 5, 1864, provides,

"That it shall be lawful for any agent or agents of said State, approved by the governor thereof, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest the tier of sections above specified, as much public land in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold," etc.

The approval of the Secretary of the Interior was essential to the passage of a perfect equitable title to the company,

First. Because without such approval there could be no identification of the land and segregation from the public domain.

Secondly. Because such approval was one of the conditions precedent to the complete right to have a patent issue.

The approval or disapproval of the Secretary of the Interior is not a ministerial act, but a judicial act. Before he can approve selections, he must pass judicially upon two principal questions, and must be able to return an affirmative answer to each.

These questions are: —

1. Has the applicant any right to select indemnity land?
2. If so, has the applicant the right to select the particular lands designated in the application?

Or, to state it in other words: —

1. Are there deficiencies in the primary or "place" limits, entitling the applicant to ask for indemnity?
2. If so, can the lands designated properly be taken to supply such deficiencies? [1]

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[1] The circular issued by Acting Commissioner Walker to registers and receivers, Aug. 4, 1885, and approved by Secretary Lamar, 12 Copp's L. O. 148, shows what was deemed by the Land Department the duty of the officers of the government in passing upon the selections of indemnity lands made by the railroad companies: —

"Before admitting railroad indemnity selections in any case, you will require preliminary lists to be filed specifying the particular deficiencies for which indemnity is claimed. You will then carefully examine your records, tract by tract, to ascertain whether the loss to the grant actually exists as alleged. You will admit no indemnity selection without a proper basis therefor. If you are in doubt whether the company is entitled to indemnity for losses claimed, you will transmit the preliminary lists to this office for instructions, and will not place the selections upon record until directed to do so.

"Where indemnity selections have heretofore been made without specification of losses, you will require the companies to designate the deficiencies for which such indemnity is to be applied before further selections are allowed.

While an approval cannot be justified without an affirmative decision or finding on both these questions, a refusal to approve is justified by a negative finding on either one of the questions.

The first question calls for a judicial determination as to what portions, if any, of the lands in the place limits have been previously disposed of. "There can be no right to select where there is no loss established; and the selection is limited by the loss." The law charges the Secretary "with the duty of seeing that the selections are made only in lieu of lands which have been lost by the company, and that they do not exceed the amount of the losses." It is his duty to see that these selections are made only for the purpose of supplying the deficiencies under the grant of the company "by reasons of sections within the place limits having been appropriated before the definite location of the line of the road." The right to make selections out of vacant lands "in the indemnity belt" depends upon the loss. "If there were no losses, there could be no lieu lands." Whether there were any losses, and if so to what extent, are matters for adjudication by the Secretary before giving his approval to any selections which may be laid before him.[1]

The second question calls for a decision as to what portions, if any, of the selected lands in the indemnity limits are still vacant (*i. e.*, free from adverse claims arising under prior governmental disposition); and also whether the selected lands, if still vacant and thus open to disposal, are situated "in the nearest tiers,"[2] etc. As in the place limits, so in the indemnity limits, a large part of the land may have been disposed of by the government before the line of the road was definitely established. Lands so disposed of in the indemnity limits cannot be taken by the company in lieu of lands similarly disposed of in the place limits. To say nothing, then, of the further fact that other lands in the indemnity limits may have been disposed of between the location of the route and the date of the attempted selection, it is clear that the mere circumstance that there is a deficiency in the place limits cannot, *ipso facto*, justify the taking by the company of any lands in the indemnity limits. It must further appear that the lands sought to be taken in the indemnity

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"The selecting agent applying to make indemnity selections must state in his affidavit attached to the list presented that the specific losses for which indemnity is claimed are truly set forth and described in said list, and that said losses have not heretofore been indemnified in any manner.

"Where deficiencies exist, for which indemnity is allowed by the law, the lieu selections must be made from vacant unappropriated land within proper sections and limits *nearest* the granted sections in which the loss occurred. You will be careful to see that this rule is strictly complied with, and will reject all selections not made in conformity thereto."

[1] See Elling *v.* Thexton, 7 Mont. 330; 16 Pac. Rep. 931 [1888], where the essential nature of the Secretary's duty under this first head is clearly set forth.

[2] For instance, on March 29, 1889, Secretary Noble approved on appeal the rejection of 381.62 acres of proposed indemnity selections of the Atlantic and Pacific Railway on the ground that they were not "nearest to the lost land as required by the Department instructions." 8 Decisions Dept. Int. on Public Lands, 373.

limits are open to selection; *i. e.*, that they have not been previously otherwise disposed of by the government.

The importance of both these questions is obvious; and it is equally obvious that the government could not safely leave them to be finally determined by the railroad company. Recognizing this, the decision of a high government official is stipulated for in the act as an essential prerequisite to the vesting of the title in the company. The above questions must both be decided affirmatively to justify the Secretary in giving his approval. If the Secretary should certify, "I find that the alleged deficiency in the place limit exists, but I am as yet unable to determine whether or not the lands selected by the company to supply that deficiency are such as may thus be properly applied," such a certificate could not be an approval of the selections within the meaning of the act. By the terms of the act of Congress of May 5, 1864, both selection and approval were made necessary to give the State or the company a vested interest in any specific tract of the indemnity land. Selection by the railroad company, approval by the Secretary of the Interior, both these facts must concur. Without either the grant was, as yet, unexecuted; and there could be as much propriety in saying that a specific interest in the land in question passed to the State and through the State to the railroad company without selection as without approval. The selection by the State was but one step toward the acquisition of the perfect title, and availed nothing unless it was met by the approval of the Secretary of the Interior.[1] This approval was not to be merely evidence of an already existing title; it was an essential prerequisite to the creation or existence of any perfect title either in the State or in the company. Such would be the law if the grant had been between private individuals; *a fortiori* is it true where the grant is from the government, and hence strictly construed as against the grantee.

Suppose that there had been on the statute book, in 1883, a law authorizing the maintenance of a suit in equity against the United States to compel the delivery of a patent in all cases where the right to the patent was complete, and no governmental duty remained to be performed except the ministerial one of issuing the patent, could the State or the railroad company have successfully maintained such a suit in reference to these lands? Would not the plaintiff have been informed by the court that, in the absence of approval by the Secretary, it had no "present right to an equitable remedy" by way of specific performance? Its claim must be grounded on the statute; and the statute expressly requires the approval which plaintiff had not then obtained. The court might, indeed, think it an act of imprudence in the plaintiff to spend so much time and money in attempting to earn a grant the final attainment of which is

[1] Compare Dixon, C. J., in Ross v. Supervisors, 12 Wis. 26, 40 [1860].

expressly made dependent on such a condition precedent. But his view would not induce the court to nullify or ignore the conditions which the owners of the land saw fit to insert in their offer. It is clear that an equitable title in the plaintiff could not exist without the approval of the Secretary of the Interior.

(*a.*) *The authorities are in perfect accord with these conclusions.*

Where any one of the conditions, made by the land-grant act a prerequisite to the issuance of a patent, has not been performed, the land remains exempt from taxation, although the grant was *in præsenti*, and the grantee had earned such an interest in the land as would prevent the acquisition of any rights in it by another except after due proceedings to forfeit the grant.

Thus in *Railroad Company* v. *Prescott*, 16 Wall. 603 [1872]; *Railroad Company* v. *McShane*, 22 Wall. 444, 460 [1874]; *Northern Pacific R. R. Co.* v. *Traill Co.* 115 U. S. 600 [1885]; where the acts provided that the cost of surveying, selecting and conveying the land be paid into the United States Treasury before any land granted by the acts be conveyed to the railroad companies, it was held that until such payment the land would remain exempt from taxation, even though the payment were for that very reason delayed.

No title passes under the usual indemnity clauses in land-grant acts until the particular parcels have been selected and segregated from the public domain, and where the act stipulates for the approval of such selections by some officer of the government, the title will not pass until such approval has been had.

The rule was stated by Mr. Justice Miller and applied by the Court in *Sioux City, etc., Railway* v. *Chicago Railway*, 117 U. S. 406, 408 [1885]:—

"But no title to indemnity lands was vested until a selection was made by which they were pointed out and ascertained, and the selection made approved by the Secretary of the Interior."

Compare

Miller, J., in St. Paul Railroad Co. *v.* Winona Railroad Co., 112 U. S. 720, 731, 732 [1885].

Field, J., in Barney *v.* Railroad Co., 117 U. S. 228, 232 [1886].

In *Railroad Company* v. *Woodbury Co.*, 29 Iowa, 247 [1870], it was sought to tax lands granted to the plaintiff under the indemnity clause of the act of Congress, June 2, 1864. The court held that "there was no such identification" as was essential to the segregation of the land from the public domain, and that the same was not possible, at least until the Department had acted at Washington, if ever before the issuing of the certificate, and declined "to permit" that the taxing powers "be authorized to enter a field entirely undefined and undefinable," and to rule "that all property held by the government to

which a company or individual may ultimately acquire the title is liable, while thus held, to taxation."

In *Cedar Rapids, etc., Railroad Co.* v. *Carroll Co.*, 41 Iowa, 153 [1875] the same conclusion is reached, and the Court found there, in the certificate of the Commissioners of the General Land Office, approved by the Secretary of the Interior, the earliest evidence of such identification.

Compare

Botiller *v.* Dominguez, 130 U. S. 238 [1889].
Pinkerton *v.* Ledoux, 129 U. S. 346 [1889].
Bouldin *v.* Phelps, 30 Fed. Rep. 547 [1887].

(*b.*) *The opinions which have been delivered from time to time by the Attorneys-General in regard to the operation of the western land grants are in accord with these decisions.*

Thus in the matter of *Sault St. Marie Canal*, 8 Op. Attys.-Genl. 247, 251 [1856], where the United States had granted to the State of Michigan, by Act of Aug. 20, 1852, for the purpose of aiding said State in the constructing said canal, "seven hundred and fifty thousand acres of public land, to be selected in subdivisions agreeably to the United States Survey by an agent or agents to be appointed by the governor of said State, subject to the approval of the Secretary of the Interior, from land within said State subject to private entry," Attorney-General Cushing advised: —

> "That grant vested immediately under condition as a floating title to so many acres of land, the title to acquire precision of locality by selections of the State subject to the approval of the Secretary of the Interior. By that approval the legal title of the United States is transferred to the State. It is not a case in which a patent needs to issue in order to convey the legal title."

In the matter of *Cape Mendocino Lighthouse Site*, 14 Op. Attys.-Genl. 50 [1872], the grant to the State was, under Act of March 3, 1852, Sect. 12, of seventy-two sections of land "to be selected by the governor of the State or any persons he may designate for that purpose, in legal subdivisions of not less than a quarter section of the unsold, unoccupied and unappropriated public lands therein, subject to the approval of the Secretary of the Interior." The State made its selections on June 16, 1860, and granted the land to one Brodenson on Jan. 19, 1861. It did not appear that the selection made by the State was in fact approved by the Secretary of the Interior, or that the Commissioner of the General Land Office had ever certified it over to the State. In 1866 and 1867, the President reserved the land for lighthouse purposes. Brodenson claimed title to it, and Attorney-General Bristow advised that:

"the selections made by the State authorities required the approval of the Secretary of the Interior before title passed from the United States to the State by the grant contained therein; and it is clear that as the selection of the land has not been approved by the Secretary, the title still remains in the United States, unless it has passed to the State by the operation of the Act of 1866,"

which the Attorney-General advised was not the case.

In the matter of *Portage Land Grant*, 14 Op. Attys.-Genl. 645 [1874], where under Act of March 3, 1865, and July 3, 1866, certain grants were made by the United States to the State of Michigan to aid in the construction of a ship canal, the Act of March 3, 1865, provided that the lands "be selected . . . by an agent or agents approved by the governor of said State, subject to the approval of the Secretary of the Interior, from any lands in the upper peninsula of said State, subject to private entry." One of the questions was whether this provision should be incorporated in the extension of the grant made by the later act. Solicitor-General Phillips gave the opinion, saying: —

"I therefore think that the Act of 1866 plainly indicates that the additional lands are to be taken by selection made by an agent of the governor of Michigan, subject to the approval of the Secretary of the Interior; for effectual selection involves not only the judgment of the former, but that of the latter as well."

(c.) *The rulings of the Department concerning the effect of the selection of indemnity lands and the necessity of the approval of the government are to the same effect.*

In re Northern Pacific Railroad Co., May 26, 1883, 2 Dec. Dept. Inter. on Public Lands, 820, Acting Commissioner Harrison ruled

"that until lands within such limits had been selected by the company, and the selection so made has received the approval of the office, the company have no right to enter thereon and take timber."

In re Northern Pacific Railroad Co. v. *DeGraff & Co.*, May 24, 1884, 2 Dec. Dept. Inter. on Public Lands, 819, Commissioner McFarland reported to Secretary Teller as follows: —

"This action was brought by direction of the Department of Justice at the request of this Department, based upon the report of Special Timber Agent Dodge, alleging trespass by said parties upon certain tracts of land in sections 9, 13 and 15, T. 140, R. 33, and section 7, T. 140, R. 32, Minnesota.

"The land lies within the indemnity limits of the Northern Pacific Railroad, and at the date of the special agent's report and action thereon by this office had not been selected by said company.

"Prior to commencement of suit, which was ordered Oct. 24, 1883, the railroad company did select the tracts under the indemnity provisions of its grant, said selections having been made Oct. 17, 1883.

"Mr. Searle states that both the railroad company and DeGraff & Co. will admit the cutting, and claim that the railroad company was entitled to cut the timber as the owner of the land. He therefore desires to know what questions of law are sought to be raised in the case.

"I have the honor to state that under decisions of the Supreme Court and of this Department, holding the indemnity privilege afloat and attaching to no land until actual selection, it would appear that the railroad company had no right to sell the timber at date of contract with DeGraff & Co., or at date of cutting.

"It has now selected the land, but such selection, to become effective on title, needs the approval of this department. It is not practicable at the present time to consider these selections. If they should be ultimately approved, it is my opinion that the suit for trespass should be dismissed.

"I therefore respectfully suggest that the case be continued to await the determination of this Department upon said selections."

In 5 Dec. Dept. Inter. on Public Lands, 658, 659, Acting Secretary Muldrow advises: —

"These lands being within indemnity limits, the company have no vested right by reason of withdrawal, but their right to any particular tract can only become vested by selection made with approval of the Secretary . . . that withdrawal may be revoked at any time and lands restored to entry at the will of the same official that made it."

In re Atlantic and Pacific Railroad Co., Aug. 13, 1887, 6 Dec. Dept. Inter. on Public Lands, 84, 87, Secretary Lamar says: —

"As to the lands within the indemnity limits, the contract was based upon two contingencies: that of losing the lands within the granted limits, and being able to find sufficient to indemnify the company among the odd-numbered sections within a further limit of ten miles. Here the interest of the company was so remote and contingent, being a mere potentiality, and not a grant, that Congress declined to order a withdrawal for the benefit of the same, or even a survey within the territories.

"It is apparent from the granting clause of said act that the grant was not one of quantity, but for a certain number of sections in place; and if not there, then it gave the privilege of looking for the deficiency in restricted limits. Had Congress intended the company should absolutely have the full quantity of land designated it would not have restricted the right to select to the odd sections within ten miles, but would have placed no lateral limit upon the right of selection. as in the case of the Burlington and Missouri River Railroad (98 U. S. 334). Therefore if the company does not get the full amount of the sections within the primary limit and fails to make up its losses in the secondary limits, there is no violation of contract anywhere that I can see; but only the happening of a contingency plainly contemplated by the granting act, subject to which the company made its contract."

In the *Guilford Miller* letter, April 28, 1887, 14 Copps' Land Owner, 28, President Cleveland says: —

"I understand, too, that selections made by such corporations are not complete and effectual until the same have been approved by the Secretary of the Interior or unless they are made in the words of the statute under his direction."

That the requirement of approval was not, in the case at bar, an idle ceremony, appears from the fact that the application for patents

for a large number of the sections selected by the company was refused by the governor of Wisconsin (Record, folio 166, 186–230), and it may well be that the plaintiff's title to a number of the parcels referred to in the complaint, for which the governor issued a patent, may yet be contested under claims of pre-emption and homestead and the swamp land acts.

We submit, therefore, that approval by the Secretary of the selections of indemnity lands was an essential prerequisite to the taxability of the lands.

II. THE ABSENCE OF APPROVAL.

On Dec. 9 and 15, 1876, the railroad company filed with the Eau Claire, Wis., Land Office, lists of selections on account of the completion of the sixth section of twenty miles of the railroad north from Stevens Point. (Record, folio 276–297.) On Dec. 26, 1876, the railroad company transmitted to the Secretary of the Interior a map and certificate of the completion of the sixth section of the railroad. (Record, folio 516.) Under the general rules of the Department these lists had to remain on file five months before action could be taken on them, this rule having been adopted (even in case of place lands) in order to give parties having adverse claims an opportunity to present proof of their claims and have them acted on by the Department. (See Record, folio 519). Meanwhile, in 1877, Secretary Schurz adopted as the rule for the Land Department at Washington the proposition then recently expressed by Mr. Justice Davis in the case of *Leavenworth, Lawrence and Galveston R. R. Co.* v. *United States*, 92 U. S. 733 [1875], that the grants of indemnity were intended to furnish lands in lieu of those only which the United States might have sold within the place limits between the passage of the land grant act and the withdrawal of the lands from the market by the General Land Office. (Record, folio 114, 115.) Secretary Schurz thereupon informed the plaintiff "that instead of being entitled to receive any more patents for lands, either in the granted limits or in the indemnity limits, they had already received something like forty thousand acres of land more than the General Land Office considered them entitled to hold," and a demand was made upon the plaintiff by the Secretary to release to the United States a large amount of the land already patented. The Secretary then positively refused to issue to plaintiff any more patents for either place or indemnity land. (Record, folio 114, 115.) Correspondence ensued between the company and the Department, which, in 1878, resulted in the issue of patents for certain place lands (not, however, including the eleven forties referred to in the complaint), the Secretary securing the government for the return of the indemnity land then considered to have been patented in excess of the grant, by withholding patents on a large quantity of place lands and exacting an agreement satisfactory to it. (Record, folio 231–243, 519, 520, 450–476.)

In 1879, Mr. Justice Harlan had occasion, in the case of *Madison and Portage Railroad Co.* v. *Wisconsin*, to pass upon the scope of the indemnity clause in the land grant acts, and reached a conclusion opposed to the principle adopted by Secretary Schurz. The plaintiff thereupon renewed its application for additional patents. The same question arising upon the application of another rail-

road company was referred by the Department to Attorney-General Devens for an opinion, and although the conclusion reached by him was favorable to the railroad companies, Secretary Schurz still refused, up to the time he went out of office, to grant further patents to the plaintiff. When Secretary Teller came in under the new administration, renewed application for patents was made, but the Secretary declined to adopt Attorney-General Devens's opinion; and again, in the early summer of 1883, upon a reopening of the question, refused to issue additional patents. Later, when plaintiffs discovered that Price County had undertaken to tax the lands, another application was made to Secretary Teller, but the Secretary declined either to approve the lists of selections of land or to give any ruling upon the matter. He asserted that Congress had the right to forfeit the entire grant because the Wisconsin Central Railroad had not been finished by Dec. 31, 1876, and inasmuch as bills were pending and had been pending for two sessions to forfeit the grant, he declined to take any action whatever on the application (Record, folio 117–124.) Thereupon the plaintiff made application for patents to the governor of Wisconsin, and a patent was granted by him covering, among other lands, those referred to in the complaint; but many of the selections made by the railroad company were refused. (Record, folio 161, 166, 186–229.) On March 2, 1885, nearly eleven months after the commencement of this suit, the decision in *Winona and St. Peter Railroad Co.* v. *Barney*, 113 U. S. 618 [1885], established the incorrectness of the principle adopted by Secretary Schurz in regard to the indemnity grants.

It will hardly be contended that the above facts contain any direct evidence of approval by the Secretary of the Interior, but the learned Supreme Court of Wisconsin says: —

"We must hold that the Secretary of the Interior did in effect approve by implication of the selections made, certified and presented to him as stated."

If this conclusion was stated as an inference of fact, we submit that it is not only wholly unsupported by evidence, but is opposed to all the evidence. For it appears conclusively that the several Secretaries of Interior, instead of approving such selections, either positively refused so to do or declined to take up the matter at all. If this conclusion was stated as one of law, from the admitted facts, we submit that it is wholly unsupported by reason or authorities.

The learned Supreme Court of Wisconsin says: —

"No objection having been made by that officer [the Secretary of the Interior] to the selections certified and presented to him as stated, except on the ground mentioned, must be regarded as an acceptance by him of such selection since it now appears that the only objection made was unfounded and that the plaintiff was then legally entitled to the lands."

The foregoing view is unsound, for two reasons: —

First. The subsequent discovery that the reason given for the

Secretary's decision was erroneous did not, *ipso facto*, operate to reverse that decision; and even if it could have so operated, such subsequent reversal could not retroactively affect the *status* of the land, or the title to the land, *ad interim*.

Second. A reversal of the Secretary's decision on the first point would still leave the second point to be decided by him or by his successor, before the selections could legally be approved. No decision on the second point had been made, either expressly or by implication.

There is no room whatever for treating the Secretary's negative decision on the first point as implying an affirmative decision on the second point. Having decided the first question in the negative, he had no occasion to pass upon the second question at all; and there is nothing to show that he did pass upon it. He held that the applicant had no right to make selections; and hence it was entirely unnecessary for him to determine whether the selections were such as would have been proper if the plaintiffs had had a right to select and submit for approval. The case, in his view of the law, did not call upon him to decide whether the lands selected were free from adverse claims, and were situated "nearest the tiers, etc." He, in effect, declined to consider these questions. *Non constat*, that he would have found the selections properly made, the lands open to disposal and situated on the right spot. It will be noted, too, that while at first the Secretary alleged as the ground of his refusal merely that plaintiff was not entitled to any more land, he subsequently withheld patents for the further reason that the railroad was not finished within the time fixed by the act.

It is submitted that the decision of the Secretary of the Interior, acting as an arbitrator, is not to be construed with the strictness formerly applied to the pleadings of a party litigant in respect to implied admission of what is not expressly controverted; nor is there here any element of estoppel *in pais*, even if the government were held subject to the operation of that principle. There was no change of position by the plaintiffs in consequence of the Secretary's failure to pass upon the second point. Because a judge or an arbitrator sustains an objection which lies on the threshold of a case, has it been generally thence inferred that he has considered all the subsequent points in the case and decided them all adversely to the party raising the preliminary objection? When a case in which a judicial ruling of that sort has been made is taken before a court of error, and the ruling is held erroneous, what order is entered? Does the court of error forthwith proceed to render final judgment for the plaintiff on the whole case, upon the theory that the erroneous decision for the defendant on the first point necessarily implies that the arbitrator considered all the other points and decided them in favor of the plaintiff? Or does not the court of error rather send the case back for a new trial on all the subsequent points and on

the first point also, unless the result on that branch of the case depends solely on matter of law?

The limits of a judgment as an estoppel are well defined: —

(1.) A judgment is *res adjudicata* only as to the issues actually litigated and those necessarily involved in the decision.

Packet Co. *v.* Sickles, 24 How. 333 [1860].
Packet Co. *v.* Sickles, 5 Wall. 580 [1866].
Burlen *v.* Shannon, 99 Mass. 200 [1868].
People *v.* Johnson, 38 N. Y. 63 [1868].

(2.) A judgment against a plaintiff who would have had to establish several facts to maintain his case, is not an estoppel as to any specific fact unless it was actually litigated.

Long *v.* Baugas, 2 Ired. (Law) 290 [1842].
Angel *v.* Hollister, 38 N. Y. 378 [1868].

(3.) A judgment against the plaintiff upon demurrer to a declaration is not *res adjudicata* as to any one of the allegations contained in the declaration.

Burlen *v.* Shannon, 99 Mass. 200 [1868].

It can hardly be contended that greater effect should be given to the decision of the Secretary of the Interior than to the judgment of a court, and yet it is clear that no such consequences as are here asserted would flow from an adjudication in any legal tribunal.

The learned Supreme Court of Wisconsin cites in connection with its ruling on "approval by implication" three decisions of this court, namely: *Walden* v. *Knevals*, 114 U. S. 373, 375 [1885], *Grinnell* v. *Railroad Co.*, 103 U. S. 739, 742 [1880], *Cedar Rapids and Mo. R. R. Co.* v. *Herring*, 110 U. S. 27, 38, 39 [1884]. None of these cases afford the slightest countenance to the doctrine announced by it.

(*a.*) *Walden* v. *Knevals*, 114 U. S. 373, 375, is quoted to the effect that the receipt of the map in the Land Office without objection "should be" considered as equivalent to its acceptance. Now, in the first place, we submit that this court did not intend to lay down any such rule of law, but merely stated what would undoubtedly, under ordinary circumstances, be a reasonable inference of fact. In the second place, the act of the filing of the map bears no resemblance to the act of selecting indemnity lands, for that statute did *not* provide for any approval by the Secretary of the location, and the statute here in question did provide that the Secretary must approve the selection of the indemnity lands. In the third place the case expressly states (page 375) that the map was filed "with the

Secretary of the Interior, who approved the same, and on the twenty-eighth day of the same month transmitted it to the Commissioners."

(*b.*) In *Grinnell* v. *Railroad Co.*, 103 U. S. 739, 742, Mr. Justice Miller says: —

"As regards the land to be selected in lieu of those lost by sale or otherwise, it may be that no valid right accrues to any particular section or part of a section until the selection is made and reported to the Land Office and possibly not then until the selection is approved by the proper officer."

But the learned justice continues: —

"None of these difficulties arise in the present case. The location was made and the map filed in the Land Office; the selection of lieu lands was made and approved and the whole lot certified."

(*c.*) In *Cedar Rapids and Mo. R. R. Co.* v. *Herring*, 110 U. S. 27, 38, Mr. Justice Miller says: —

"It is obvious, however, that the right to these odd sections and the right to others in lieu of such odd sections stand on very different circumstances, and it is not easy to see how rights can be vested in any particular section or sections of the latter class until it is ascertained how many of the original odd-numbered sections are thus lost and until the grantee has exercised his right of selection."

The approval of the Secretary is not referred to as a prerequisite for the obvious reason that the act there in question did not provide that the selection should be subject to his approval.

On the other hand, *U. S. ex. rel. Brewster* v. *Kansas City, Lawrence and South Kansas R. R. Co.*, 25 Fed. Rep. 243 [1885], furnishes us with an authority, if any is needed, that the Secretary's approval cannot be inferred from such acts. That was a bill to set aside a patent to lands in Kansas. By statute March 3, 1863, the Atchison, Topeka and Santa Fé Railroad Company received a grant of lands for building a railroad southwest from Atchison with a branch from its crossing of the Neosho to a point where the Leavenworth, Lawrence and Galveston Railroad Company should enter the valley. In July 1866, a direct grant was made by Congress to the Missouri, Kansas and Texas Railroad Company to aid in building a line, which was substantially the same as the branch of the Atchison Railway already referred to. Then, in March, 1866, the Atchison, Topeka and Santa Fé Railroad Company assigned its franchise to the Missouri, Kansas and Texas Railroad Company, and the State ratified this assignment. The act of 1866, making a direct grant, granted lands in place and provided for indemnity lands to be selected by the Secretary of the Interior. The lands in controversy were within the indemnity strip. The defendants claimed both grants under both acts, claiming legal and equitable title. Brewer, J., held uponthe construction of the acts that defendants had not acquired the legal title, and in passing upon the position that the defendant had acquired the equitable title to the land and that therefore the court should not interfere, said: —

"When the legal title fails, the defendant may defeat the action by proof that the equitable title to the very lands is with it, but not by proof that it had an unadjusted equitable claim upon the government for an equal quantity of unselected lands. The Act of 1866, as heretofore stated, made a direct grant to the railroad company. It provided for patents from the government to it. It granted lands in place and provided for indemnity lands to be selected by the Secretary of the Interior. The lands in controversy are not part of the lands in place, but are within the indemnity strip. Were they ever selected as indemnity lands under the Act of 1866? Respondent claims that they were, but the evidence does not satisfy me of the fact, but rather indicates the contrary. It is true that in August, 1872, the Leavenworth, Lawrence and Galveston, and the Missouri, Kansas and Texas Companies filed a joint claim for these lands as idemnity lands, in which the former company claimed under the Act of 1863, and the latter under both the acts of 1863 and 1866. But the Commissioner of the General Land Office recognized the claim as under the Act of 1863 alone, and certified the lands to the State. This was done in April, 1873. But for the reasons given heretofore I think the Missouri, Kansas and Texas Company had no valid legal or equitable claim under the Act of 1863. But it is said that under the Act of 1866 it did have a valid claim, and that the mistake of the Commissioner in naming the statute does not destroy equitable rights. But how can it be inferred that the Secretary of the Interior would have recognized any claim under the Act of 1866, or, recognizing it, made a selection of these lands in satisfaction therefor?"

The views in regard to approval, stated above, are in accord with the action of the Land Department.

In re Southern Minn. R. R. Co., 8 Dec. Dept. Int. on Public Lands, 472, May 6, 1889, the railroad company had relinquished certain selections of indemnity land, and made new selections in place thereof, which selections were cancelled by the Land Commissioner on the ground that the company had no right to make such selections. On appeal, Secretary Noble, confirming the action of the Commissioner, said: —

"It is claimed by counsel for the railroad company in their argument both in the case at bar and in the case of the Chicago, Milwaukee and St. Paul Railroad Company on appeal from the Commissioner's decision of Oct. 1, 1886, and the argument in which is specially referred to and made a part of the argument in this case, that because the local officers accepted the list containing the relinquishments and selections in 1877 and no objection was made thereto until your said letter of Jan. 20, 1887, the whole matter was definitely determined in 1877, and your office has now no jurisdiction to reopen and retry the case; and further, that, having accepted the relinquishment and marked the same restored to the public domain on the plat and tract books, the said action amounted to an approval of selections also. This does not follow. On the contrary, in Penn. R. R. Co. *v.* Carlton, 2 L. D. 531, where the relinquishments specifically reserved the right of indemnity under the Act of 1874, it was held that the relinquishment was unconditional.

"In the Chicago, Milwaukee and St. Paul Railroad Company case referred to, which was decided by this Department on appeal July 9, 1888, the selections were not allowed."

We submit, therefore, that the Secretary of the Interior did not in fact approve of the selections made by the railroad company, and that his action did not amount to an approval by implication of law.

III. THERE WAS NO WAIVER OF THE SECRETARY'S APPROVAL.

The only conceivable grounds on which it could be contended that the prerequisite of the approval by the Secretary of the Interior had been waived are,

1. That the Secretary ought to have approved, and that therefore an arbitrary refusal to approve will not prevent the vesting of the equitable title.

2. That the Secretary, in declining to issue the patents, elected to put his refusal on another ground than his disapproval of the selections made, and that although his position proved to be unsound, the United States were estopped from insisting upon any other.

Both of these possible contentions are, however, unsound.

1. *The Court cannot dispense with the prerequisite of approval by declaring the refusal arbitrary.*

Either of two views may be taken of the position held by the Secretary of the Interior as the party appointed to approve the selections: one, that he holds the position of an arbiter between the company and the United States, the other that he represents the United States.

If the former view prevails, then the well-settled rule of contracts applies — that where the favorable decision of a third person is made a condition precedent to the acquisition of a right or title, no right or title can accrue (in the absence of fraud or collusion) so long as that condition remains unfulfilled.

> Kihlberg *v.* United States, 97 U. S. 398 [1878].
> Worsley *v.* Wood, 6 T. R. 710 [1796].
> Scott *v.* Liverpool Corporation, 3 De Gex & Jones, 334 [1858].
> Johnson *v.* Phœnix Insurance Co., 112 Mass. 49 [1873].

If, however, the other (and doubtless the correct) view prevails, that the Secretary is made the representative of the United States, and as such not merely the conservator of its own rights but the protector of those who may have acquired rights under its laws, the result will be equally fatal to the contention suggested.

> Sweeney *v.* United States, 109 U. S. 618 [1883].
> Martinsbrook, etc., R. R. Co. *v.* March, 114 U. S. 549 [1885].

For, as before stated, the approval of selections by the Secretary involves two questions: —

First. Are these deficiencies in the primary or place limits such as to entitle the applicant to ask for indemnity?

Second. If so, what lands can properly be taken to supply such deficiencies?

Each of these inquiries may involve questions both of law and of fact. If a court should undertake to say that the Secretary ought to have approved certain selections, and that his refusal so to do was arbitrary, it would usurp the functions which Congress has confided to the Secretary of the Interior.

So far as concerns issues of fact, it would substitute the decision of a jury, or of a judge sitting as a jury, for that of the special tribunal consisting of the appropriate officers of the Land Department, whose decisions on questions of fact are made final for all purposes and as between all parties whatsoever.

Baldwin *v.* Stark, 107 U. S. 463 [1882].

So far as issues of law might be involved, this doctrine, if adopted, would entail likewise the usurpation of functions strenuously withheld from the courts; for no court possesses the power to enforce a supposed right to a patent as against the United States, although all the facts from which that right is believed to flow are uncontroverted. The decision of a question of law, like the construction of a statute, is one involving a discretion, and the exercise of that discretion has (so far as concerns the public domain) been confided in the Secretary of the Interior.

Gaines *v.* Thompson, 7 Wall. 347 [1868].
Secretary *v.* McGarrahan, 9 Wall. 298, 315 [1869].
Litchfield *v.* Register & Receiver, 9 Wall. 575, 577 [1869].
United States *v.* Jones, 131 U. S. 1 [1889].

If, indeed, that discretion has been already exercised and the patent executed and recorded, then the delivery of the patent may be enforced by the court, for the title has then passed and it is only the ministerial act of compelling the production of evidence that is decreed.

United States *v.* Schurz, 102 U. S. 378 [1880].

Again, if the United States has conveyed away all its interest, and the question arises, for instance, between private individuals, then the correctness of the Secretary's decision upon points of law may be reviewed by the court, and under similar circumstances the ordinary equitable jurisdiction on the ground of fraud exists.

Shepley *v.* Cowan, 91 U. S. 330 [1875].
Moore *v.* Robbins, 96 U. S. 530 [1877].
Craig *v.* Leitensdorfer, 123 U. S. 189 [1887].

These instances of the court's jurisdiction serve but to bring out in stronger relief their lack of power to determine any rights concerning land until it has been segregated from the public domain by

the voluntary act of the United States. Our land laws draw throughout a broad line of distinction between rights of claimants to lands as against the United States and the rights of claimants as against each other. As against claimants the United States reserves to itself (acting generally through the Interior Department) the power of a beneficent sovereign, dispensing justice according to its own ideas of right; whereas the claimants, as against each other, are permitted to invoke the law and the ordinary tribunals of the land.[1]

Thus, while occupation and improvement on the public lands, with a view to preemption, do not confer a vested right as against the United States, there is thereby acquired as against individuals who have not an equal or superior title, a right to possession and to a preference over others in the purchase of the land.

Frisbie *v.* Whitney, 9 Wall. 187 [1869].
Yosemite Valley Case, 15 Wall. 77 [1872].

If the hardship be suggested of letting rights depend upon the arbitrary decision of the Secretary of the Interior — it may be answered that the State and the railroad company voluntarily accepted the proffer of the United States — and that even as between private individuals, where one party contracts that his rights against the other shall be dependent upon that others' approval or satisfaction, this term of the contract will be rigidly enforced.

Moffatt *v.* Dickson, 13 C. B. 543 [1853].
Brown *v.* Foster, 113 Mass. 136 [1873].
Zaleski *v.* Clark, 44 Conn. 218 [1876].
Gibson *v.* Cranage, 39 Mich. 49 [1878].
Singerly *v.* Thayer, 108 Pa. St. 291 [1885].

The argument that where a claimant to land has complied with all the conditions which can be performed by him, and has done all things to entitle him to the performance of the other conditions by officials of the government, then the neglect or refusal of

[1] "It is argued, however, that the new law has extended the jurisdiction of the Court of Claims, and the concurrent jurisdiction of the Circuit and District Courts, or, at least, the latter, so as to embrace every kind of claim, equitable as well as legal, and specific relief, or a recovery of property, as well a recovery of money. If such is the legislative will, of course the courts must conform to it, although the management and disposal of the public domain, in which the newly-claimed jurisdiction would probably be most frequently called in exercise, has always been regarded as more appropriately belonging to the political department of the government than to the courts, and more a matter of administration than judicature. . . . We should have been somewhat surprised that the administration of vast public interests like that of the public lands which belongs so appropriately to the political department, had been cast upon the courts, which it surely would have been if such a wide door had been opened for suing the government to obtain patents and establish land claims as the counsel for the appellees in these cases seems to imagine. We are satisfied that the door has not yet been opened thus wide."

Mr. Justice Bradley in U. S. *v.* Jones, 131 U. S. 1, 15, 19 [1889].

the government officers to perform their duties should not prevent the acquisition of an equitable title to the land, is a familiar one to this court, having been pressed upon it, without success, in cases arising under the New Madrid Act of Feb. 7, 1815.

By that act, land owners in the county of New Madrid, whose lands had been materially injured by recent earthquakes, were authorized to locate the same quantity on any of the public lands of the Missouri territory, the sale of which was authorized by law. The statute provided that the recorder of land titles for the territory should "ascertain who was entitled to the benefit of the act, and to what extent," and should issue to each claimant whose claim proved well founded a certificate showing the amount of land to which the claimant was entitled. The further steps were that the claimant should present an application to the surveyor-general, designating the lands which he desired to appropriate; whereupon the surveyor should survey the land selected, and return a plat to the recorder of land titles, together with a written notice designating the tract and the name of the claimant. The notice and plat were to be recorded by the recorder, who was then to transmit a report of the claim allowed and location made to the Commissioner of the General Land Office, and also deliver to the claimant a certificate stating the circumstances of the case, and that he was entitled to a patent for the tract designated. This certificate having been thus presented to the Land Office, a patent was to be issued. In some instances application to have a survey of a particular tract was made and possession thereof taken, but no survey actually completed. In other instances the survey was made, but the survey and notice were not returned to the recorder's office.

The court held that in such cases no title, legal or equitable, vested in the claimants.

Bagnell *v.* Broderick, 13 Pet. 436, 448 [1839].
Lessieur *v.* Price, 12 How. 59, 74 [1851].
Rector *v.* Ashley, 6 Wall. 142, 151 [1867].
Mackay *v.* Easton, 19 Wall. 619, 634 [1873].
Hot Springs Cases, 92 U. S. 698, 713 [1875].

In Rector *v.* Ashley, 6 Wall. 142, 151, Mr. Justice Miller said:—

"We are much pressed in the present case with the argument that the title here spoken of by the Court is the legal and not the equitable title, and that inasmuch as the applicant has done all that he can do to make good his claim to the land, when he has deposited with the survey his certificate of loss, with a description of the land desired in exchange, he has thus acquired an equitable interest in the land so described, which the United States cannot divest by giving it to another.

"But the rights of claimant are to be measured by the act of Congress, and not exclusively by what he may or may not be able to do; and if a sound construction of that act shows that he acquires no vested interest in the land until the officers of the government have surveyed the land, and until that survey is

filed in the office of the recorder and approved by him, then as claimants' rights are created by that statute, they must be governed by its provisions, whether they be hard or lenient. It seems to us clear from the foregoing cases, that the Court intended to decide that until this was done the claimant acquired no vested right to the land, no title, legal or equitable."

The same principle was recognized in *United States* v. *McLean*, 95 U. S. 750, 753 [1877], where a postmaster sued for additional compensation, to which he claimed that he was entitled under the terms of his employment, upon a readjustment of salary on the basis of the amount of postage stamps cancelled at the office during each quarter year. The postmaster was not allowed to recover, and Mr. Justice Strong, delivering the unanimous opinion of the court, said: —

"From a review of these statutory provisions it appears plainly that, after a salary of a postmaster has been fixed, a readjustment by the Postmaster-General must be made before it can be increased, and the readjustment takes effect in all cases prospectively. The law imposes no obligation upon the government to pay an increased salary, unless a readjustment has preceded it. And by the Act of 1866, the Postmaster-General is not to readjust an existing salary, unless the quarterly returns made show cause for it. Now, if it be conceded that the quarterly returns made on the last day of each quarter, beginning with June 30, 1871, made it the duty of the Postmaster-General to make a readjustment immediately on the receipt of the returns, still his readjustment was an executive act, made necessary by the law, in order to perfect any liability of the government. If the executive officer failed to do his duty, he might have been constrained by a *mandamus*. But courts cannot perform executive duties, or treat them as performed when they have been neglected. They cannot enforce rights which are dependent for their existence upon a prior performance by an executive officer of certain duties he has failed to perform. The right asserted by the claimant rests upon a condition unfulfilled. The judgment was therefore erroneous, and must be reversed, and the record remitted to the Court of Claims, with instructions to dismiss the petition."

We submit therefore that no court has the power to declare that the refusal of the Secretary of the Interior to issue a patent for the lands was arbitrary and hence should be disregarded.

II. *The assertion of an erroneous ground for refusing the patent does not waive the prerequisite of approval.*

A waiver takes place "where one in possession of any right, whether conferred by law or by contract, and of full knowledge of material facts, does or forbears the doing of something inconsistent with the existence of the right or of his intention to rely upon it."

Bishop, Contracts (2d ed.) Sect. 792.

It is surely not inconsistent with any ground for refusing to approve certain selections of land, that the party is not entitled to any land whatever. The Secretary of the Interior, in effect, "demurred" to the railroad company's application for additional patents, and we believe that our law, as now administered, affords no instance where a party is precluded from testing by a proper proceeding like

a demurrer, the legal validity of his adversary's position, without irrevocably admitting the truth of the allegations stated by him.

On the other hand, the assertion of an unsound reason or justification for an act or refusal will not invalidate the act if a good reason existed, thus: —

(*a.*) If an employer has good cause for dismissing his employee, his action is justified though an invalid ground has been assigned as the reason.

Strauss *v.* Meertief, 64 Ala. 299 [1879].
Ridgway *v.* Hungerford Market Co., 3 Ad. & El. 171 [1835] Denman, C. J.

(*b.*) So a distress need not be justified by the cause which happened to be assigned at the time, if any legal justification can be shown.

Crowther *v.* Ramsbottom, 7 T. R. 654 [1798].
Trent *v.* Hunt, 9 Ex. 14 [1853].

(*c.*) So the repudiation of a contract is good, if any legal cause existed, though the repudiation was put only on moral grounds.

In re London & Mediter. Bank, L. R. 7 Ch. 55 [1871].

(*d.*) So one who has a legal and an illegal warrant, and arrests by virtue of the illegal one, is justified by virtue of the other.

Dr. Grenville *v.* Coll. of Physicians, 12 Mod. 386 [12 Wm. III.].

If there were no evidence of denial or dispute by the government of the company's right to a patent, the defendants might, perhaps, argue that the State had a right to presume that a patent would issue in the course of time, or that the absence of approval by the Secretary not being raised by the government in its dealings with the claimant, will not be insisted upon, and that hence the land is taxable by the State.[1] But there is no room in the case at bar for

[1] In *Railroad Company* v. *McShane*, 22 Wall. 444, 463 [1874], it was urged that the Department of the Interior had not ordinarily required the payment of the cost of surveys as a prerequisite to the issuing of a patent; but Mr. Justice Miller said: —

"It is said, however, by counsel for the State, that the Interior Department has never demanded the costs of surveying the lands within the original ten-mile limit, in cases in which they have issued patents, and do not claim them in those for which no patent has been issued; that as the non-payment of these costs, therefore, is no impediment to demanding and receiving the patents, the equitable title is complete, and they should be held subject to taxation.

"We held, however, in the case of *Railway Company* v. *Prescott*, that these costs of survey attached to all the lands granted to the road, whether by the original act or by the amendatory Act of 1864, and we have no sufficient evidence before us that the Department of the Interior has acted on a different principle. If, however, they have done so heretofore, it is not for us to say that they will grant patents hereafter without payment of these costs; and in a case where we are called on to decide whether such costs are lawfully demandable before the legal title of the company is perfect, we must abide by our own construction of the statute."

the presumptions on which such argument must be based; for instead of acquiescence by the government in the plaintiff's claims, there was an express insistence upon the right of the United States to retain control of the land.

We submit, therefore, that the approval of the Secretary of the Interior was a necessary prerequisite to the existence of a perfect title, legal or equitable, to the indemnity lands; that there was no such approval in fact or in law; that the prerequisite of such approval was not waived; that hence these lands were not taxable in 1883, and that the relief prayed for should be granted as to them.

B.

Neither lieu lands nor place lands were taxable because plaintiff's claim to them was disputed and the enjoyment of them denied to it by the United States.

The facts showing the persistent denial by the government of plaintiff's title to these lands have been referred to at length. Its denial to the plaintiff of all enjoyment of them was equally persistent: —

"The Secretaries of the Interior, from Secretary Delano down to the present time, have always insisted that the company must obtain patents from the United States before the United States would recognize its right to enter upon or in any way exercise control over any of the lands covered by the grant." (Record, folio 114.)

The lower court found as a fact that the lands were "wild, unoccupied and unimproved."[1]

Carroll v. *Safford*, 3 How. 441 [1845], *Witherspoon* v. *Duncan*, 4 Wall. 210 [1866], and the other cases establishing, under certain circumstances, a liability of land to taxation, although the legal title remains in the United States, have their source in the principle that "taxation and protection are reciprocal."[2]

This broad principle of justice will not permit one who has the undisputed right and the undisturbed enjoyment of property to use the barren legal title of the government to shield him from bearing his just share of State taxation. "Protected in the use and enjoyment of his land, he should, to the extent of the value of that property, be taxed to assist in upholding the government and its laws"[3]

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[1] "The judge of the District Court for Blue Earth County, in which the case was first tried, made an elaborate finding of facts on which his judgment was rendered, and also an amended finding; and by these, so far as any controversy on the facts arises, the Supreme Court of Minnesota was governed, and so is this court."
Mr. Justice Miller in St. Paul R. R. *v.* Winona R. R., 112 U. S. 720, 724.

[2] "The theory of taxation is, that the right to tax is derived from the protection afforded to the subject on which it is imposed."
Ruffin, J., in Redmond *v.* Commissioners, 87 N. C. 122, 123.

"Taxes are levied upon the principle that they are but just returns for the protection and advantages derived from them."
Dixon, C. J., in Warden *v.* Supervisors, 14 Wis. 618, 620 [1861].

"Taxation is that tribute for the support of government imposed on property in return for the protection and advantages which the government affords to the owner."
Bartly, C. J., in Exchange Bank *v.* Hines, 3 Oh. St. 1, 10 [1853].

"The taxing power rests upon the reciprocal duties of protection and support," etc.
Agnew, J., in McKeen *v.* Northampton, 49 Pa. St. 519, 524 [1865].

[3] Stockdale *v.* Webster Co., 12 Iowa, 536 [1861], Wright, J.

But the cases show that undisturbed enjoyment and undisputed right, so far as concerns the United States, must exist before the land becomes taxable. In their absence, the private individual does not receive from the State any protection toward the expense of which he should justly be called upon to contribute, and no reason exists for any exception to the general rule that property held by the United States is exempt from taxation.

Consequently, where the United States retains the legal title to any part of the public domain and the right of a private individual to the ownership and enjoyment thereof is in fact disputed, the property is not taxable, though it be subsequently established or admitted by the government that he then actually possessed such right.

Thus in *Dickerson* v. *Yetzer*, 53 Iowa, 681 [1880], the Chicago, Rock Island and Pacific Railroad held land under the Act of May 15, 1856. The grant had in fact been earned in 1874, but no patent had issued. Before that year a homestead entry had been made by one Banker, who was permitted in 1877 to make final proof and obtained a certificate. It proved to be an invalid claim, was finally rejected, and a patent issued to the railroad company. In 1874 the land was taxed. The court held that the land was not subject to taxation, and after reviewing the cases in which granted land had been declared taxable, said: —

"In those cases it was held in substance that land embraced within a railroad land grant becomes taxable upon being earned by the company, notwithstanding the legal title may not have passed from the United States. In our opinion, however, these cases are applicable only where the legal title is due to the company and the United States retains it simply because the company has neglected to take proper steps to obtain it. . . . After the homestead entry was made by Banker, there was an obstacle to the company's obtaining title. The United States commenced holding the title in trust for whichever party should prove the rightful claimant. While the title was so held by the United States, it appears to us that it would be improper to hold that the land was subject to taxation and subject to be sold at tax sale and the title subject to be diverted by tax deed. The United States had still a duty to perform in regard to it."

In *Doe* v. *Iowa R. R. Land Co.*, 54 Iowa, 657 [1880], plaintiff claimed under a tax title; the defendant under a grant from the railroad. The land had been earned in 1867, but was not certified to the railroad company until 1875. In 1870 it was taxed. The State claimed it as swamp land, in 1850, and as late as 1872 the government notified the railroad company that it was so claimed. The court held the land exempt from taxation and said: —

"Whether the claim made under the swamp-land grant was in fact valid, is immaterial, because its existence was recognized by the proper officers of the government. Until such claim was adjusted, it was an effectual bar as to the railroad company. All it could do was to get the proper officers to determine to whom the land belonged. There is no evidence tending to show this was accomplished until the certificate was issued in 1875.

"The defendants were not liable to pay taxes, nor was the land taxable until the right of the railroad company had earned the same by construction of the road, and there was nothing to prevent the title vesting in said company. In other words, to render the land taxable the general government must have held the naked legal title in trust for the railroad company, the right of the latter thereto being undisputed, but because of its inexcusable delay or negligence the title remained in the government."

In *Grant* v. *Iowa R. R. Land Co.*, 54 Iowa, 673 [1880], the court reached the same conclusion, saying: —

"The grantee cannot be required to pay taxes upon land until it has been identified and determined to be covered by the grant. While claimed adversely, and the claim has not been determined by the officers of the government, he has no taxable interest in the land."

In *Iowa Railroad Land Co.* v. *Fitchpatrick*, 52 Iowa, 244 [1879], the plaintiff endeavored to have set aside a sale for taxes assessed on the land before the issuing of the patent, claiming that the patent was withheld on the ground of dispute as to the ownership. The single issue in this case was whether the title was denied or disputed, and as the court reached the conclusion that it was not disputed, the land was held to be taxable.

In *Central Pacific Railroad Co.* v. *Howard*, 52 Cal. 227 [1877], where it was sought to tax railroad lands, one section of the land grant act provided that *bona-fide* or actual settlers under pre-emption laws might, after due proof settlement, purchase the same at the price fixed for them at the date of settlement, and that settlers under the homestead act who comply with its terms should be entitled within the limits of said grant to patents for an amount not exceeding eighty acres of the land so reserved by the United States. The lands, though earned, were held to be exempt from taxation, the court saying: —

"It is clear that while contests are pending between the plaintiff and any claimants under the pre-emption or homestead acts, it is the duty of the officer of the United States to refuse to issue patents for the lands so contested, to the plaintiff, and the right of the latter to patents therefor is not perfect and complete within the meaning of the language of the Supreme Court of the United States in Railway Company *v.* Prescott. The fact that the plaintiff would be entitled to the lands in lieu of those awarded to pre-emptioners or claimants under the homestead act, but strengthens the proposition that it had not acquired a right to patents for the particular parcels assessed. Before the patent has actually issued to the plaintiff, its retention of the land is subject to both contingencies, and we cannot assume that either of them will occur."

If land is not taxable while it is withheld by the government from the ultimate grantee on account of a pending adverse claim by a third party, *a fortiori* should it be deemed untaxable while withheld by the government on account of the government's own denial of the applicants' right.

Such seems to have been the opinion of the court in *Union Pacific Railway Co.* v. *McShane*, 3 Dill. 303 [1873]. The bill

there sought to restrain defendants from levying taxes for the year 1872 on both patented and unpatented lands of the Union Pacific Railway Company. The unpatented lands were of two classes: first, alternate odd sections of land within place limits, on which the costs of survey had not been paid; secondly, alternate odd sections of lands within the indemnity limits which had all been selected, listed and certified, and on which land office fees and costs had been paid. The committee appointed under the joint resolution of April 10, 1869, having reported that $1,586,000 would be required for supplying the deficiencies on the whole road, the Secretary of the Interior directed patents to issue for odd-numbered sections 1, 5, 9, etc., and directed that patents for 3, 7, 11, etc., be withheld until further orders, as security for the government for supplying any deficiencies in the road thus withholding patents for one half the land. The court held that

"lands which have not been patented either because the costs of surveying required by Sect. 21 of the Act of 1864 have not been paid or because patents have been withheld by the Interior Department as indemnity to make good the deficiencies in the construction of the road, are not taxable. It does not appear that there are any lands not patented which have been fully earned and set apart to the company upon which all fees have been paid and for which the patents are not retained by the government for their own security, and, therefore, for all practical purposes, I hold that the lands in this case be divided into two classes: first, those which are taxable; second, those which have not been patented and which are not shown to be taxable."

It did not appear that at the time of the assessment of the tax there were any deficiences in the road, and the act contained no provision specifically authorizing the government to withhold the patents generally as security, but the court treated the physical fact that the patents were so withheld under a claim of right equally operative as the express provision of law in regard to paying cost of survey, in preventing the railroad from acquiring a perfect equitable title, and that hence the lands were not taxable.[1]

Prior to the decision of the learned Supreme Court of Wisconsin in 1885, in the case at bar, no instance could be found where the taxation of land of which the United States still held the legal title and of which they claimed the ownership had been sustained. In those cases in which this court sustained such taxability, the full rights of the private individual had been recognized by issuing a final certificate.[2] In the cases decided in the Federal Circuit Courts

[1] Upon appeal of the case to this court, *Railroad Co.* v. *McShane*, 22 Wall. 444, 463 [1874], it was assumed by the Court that the costs of survey had not been paid on any of the unpatented lands.

[2] Carroll *v.* Safford, 3 How. 441, 460 [1845].

"When the land was purchased and paid for it was no longer the property of the United States but of the purchaser who held for it a final certificate which could no more be cancelled by the United States than a patent." McLean, J.

Witherspoon *v.* Duncan, 4 Wall. 210, 218, 219 [1866].

"In no just sense can lands be said to be public lands after they have been entered at the Land Office and a certificate of entry obtained. . . . If the law on the

sanctioning such taxation, there had been either a certificate or a land office receipt of equal solemnity.[1] And in every unreversed decision in the State courts where such right of taxation was upheld, there existed either a certificate or a receipt, or at least an utter absence of any evidence of dissent on the part of the United States to the claim of title by the individual.[2]

It is respectfully submitted that the error of the learned Supreme Court of Wisconsin, in holding lands taxable despite the claim of ownership by the United States, and the denial to the railroad company of all enjoyment of the land, must have proceeded upon a misapprehension of the remarks in the earlier cases regarding the taxability of the "equitable title" before issuance of the patent, and upon a misapplication of the maxim that "equity will consider as done what ought to be done."

The cases maintaining the taxability of land before issuing the patent use such language as this: —

"The government agrees to make proper conveyances as soon as it can, and in the mean time holds the naked legal fee in trust for the purchaser who holds the equitable title."[3]

"The doctrine 'that land sold by the United States may be taxed before they have parted with the legal title by issuing a patent,' is to be understood as applicable to cases where the right to the patent is complete, and the equitable title fully vested in the party, without anything more to be paid or any act to be done going to the foundation of his right."[4]

Now the law is familiar with equitable estates and titles, such as are created by wills or deeds or declarations of trust; they are as

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subject is complied with and the entry conformed to, it is difficult to see why the right to tax does not attach as well to the donation as to the cash entry. In either case when the entry is made and certificate given, the particular land is segregated from the mass of public lands and becomes private property." Davis, J.

[1] Astrom *v.* Hammond, 3 McLean, 107 [1842].
Carroll *v.* Perry, 4 McLean, 25, 27 [1845].
Coleman *v.* Peshtigo Lumber Co., 30 Fed. Rep. 317 [1887].

[2] Wallace *v.* Seymour & Rennick, 7 Oh. 156 [1835].
Gwynne *v.* Niswanger, 15 Oh. 367 [1846]; 20 Oh. 556 [1851].
Matthews *v.* Rector, 24 Ohio St. 439 [1873].
Stockdale *v.* Webster Co., 12 Iowa, 536 [1861].
Iowa Homestead Co. *v.* Webster Co., 21 Iowa, 221 [1866].
Railroad *v.* Webster Co., 21 Iowa, 235 [1866].
C. B. & Q. R. R. *v.* Holdsworth, 47 Iowa, 20 [1877].
Iowa R. L. Co. *v.* Fitchpatrick, 52 Iowa, 244 [1879].
Vinton *v.* Cerro Gordo Co., 72 Iowa, 155 [1887].
Mo. River, etc., R. R. Co. *v.* Morris, 13 Kans. 302 [1874].

See People *v.* Shearer, 30 Cal. 645 [1866].
Donovan *v.* Kloke, 6 Neb. 124 [1877].

Cass Co. *v.* Morrison, 28 Minn. 257 [1881], is perhaps at variance with the above statement, if the enactment by Congress of a general statute declaring that no conveyance under the Land Grant Acts should be made until the cost of survey had been paid, and which the court held void, be deemed a denial of the company's title.

Wheeler *v.* Merriman, 30 Minn. 372 [1883], is considered later in connection with the doctrine of relation.

[3] Davis, J., in Witherspoon *v.* Duncan, 4 Wall. 210, 218 [1866].

[4] Miller, J., in Railroad Co. *v.* Prescott, 16 Wall. 603, 608 [1872].

definite as legal estates or titles, and possess many of the same attributes. And in the cases referred to the position of the United States, before patent issued, was aptly described as that of trustee, and the title of the purchaser as an equitable one. For there the private individual had not merely entered his land at the proper land office and done all those other acts which were necessary to entitle him to a patent, but he had received a certificate from the sovereign reciting that to be a fact and reciting also as the legal conclusion therefrom that he was entitled to receive a proper conveyance thereof in due time.

Such certificate has all the solemnity of a patent.

(*a.*) It cannot be cancelled except on such proceedings as would be requisite for the cancellation of a patent.

Carroll *v.* Safford, 3 How. 441, 460 [1845], McLean, J.
Smith *v.* Ewing, 23 Fed. Rep. 741 [1885].

(*b.*) It gives the immediate right of possession and exclusive right of dominion over the land, with the power to oust any intruder by due course of law.

Union Mill & Min. Co. *v.* Dangberg, 2 Sawyer, 450, 455 [1873].

Compare

United States *v.* Freyberg, 32 Fed. Rep. 195 [1886].

(*c.*) It gives a title which descends to heirs, may be aliened by deed or will, or may be sold upon execution.

Levi *v.* Thompson, 4 How. 17, 19 [1846].
McClung *v.* Steen, 32 Fed. Rep. 373 [1887].
Camp *v.* Smith, 2 Minn. 155 [1858].
Goodlet *v.* Smithson, 5 Porter, 245 [1837].

(*d.*) Possession under it is held to be within the terms of a special statute of limitations concerning claims of title "founded upon some written instrument as being a conveyance of the premises in question."

Cawley *v.* Johnson, 21 Fed. Rep. 492 [1884].

Such certificate is, in the strictest sense, a declaration of trust by the United States, and as it endows the private individual with all the attributes and incidents of ownership, the interests thus created are aptly described as the perfect equitable title.[1]

[1] The requisite of governmental recognition to the existence of rights against the sovereign was applied, under other circumstances, in *Bucksport* v. *Woodman*, 68 Me. 33 [1877], where it was held that an award against the United States rendered in the Court of Commissioners of Alabama Claims was not taxable as a debt due from the United States until Congress had passed an appropriation for its payment.

Very different is the situation of one who has performed all acts entitling him to a conveyance, but lacks the recognition by the United States of that fact and of its legal results. Instead of standing in the position of a beneficiary in a declaration of trust, he is in the attitude of one who might seek to have a trust declared. He has no equitable estate, no equitable title; but merely what, in the ordinary relations between man and man, would be termed an equity, *i. e.*, a right to come into a court of chancery and enforce certain rights in relation to specific property, — in other words, an "equitable legal remedy." In a court of chancery the possession of the right to compel a conveyance is, under some circumstances, with a view to the advancement of justice, endowed with the same results as if the conveyance had actually been made, and the court has embodied its rule of action in such cases in the maxim, "Equity will consider as done what ought to be done." But this rule, upon which the learned Supreme Court of Wisconsin doubtless acted, cannot govern here, for

First. The maxim "Equity will consider as done what ought to be done," has no application to the facts of this case, because the rule is applied only as between the party in whose favor and the party against whom the equity exists (and their privies). A stranger cannot avail himself of it,

> Burgess *v.* Wheate, 1 W. Bl. 123, 129 [1759], s. c. 1 Eden, 177,

and the State is stranger to the transaction between the railroad company and the United States within the meaning of the rule; thus

(*a.*) A stranger cannot avail himself of the equity of an obligee to have specific performance of a contract or to have the covenant treated as if it had been enforced.

> Tasker *v.* Small, 3 My. & Cr. 63 [1837].
> Beardsley Scythe Co. *v.* Foster, 36 N. Y. 561 [1867].

(*b.*) A stranger cannot invoke the doctrine of equitable conversion.

> See Crabtree *v.* Bramble, 3 Atk. 680 [1747].

(*c.*) A stranger cannot avail himself of the equity to have a conveyance rescinded on the ground of fraud.

> Andrews *v.* Jones, 10 Ala. 400 [1846].
> Davidson *v.* Little, 22 Pa. St. 245 [1853].
> *In re* Metcalfe's Trusts, 2 De G. J. & S. 122 [1864].

(*d.*) A stranger cannot avail himself of a constructive trust raised from the fraud of the trustee.

> Wilson *v.* Troup, 2 Cow. 195 [1823].
> Painter *v.* Henderson, 7 Barr, 48 [1847].

Second. The maxim "Equity will consider as done what ought to be done" has no application to the facts of this case because the scope of the maxim is limited by the power and willingness of the court to enforce its idea of "equity." In other words, a court will not consider as done everything which appeals to its moral sense as being equitable, but merely that which it could and would enforce, and the court has no power to enforce any supposed "equities" against the United States. Thus, A agrees to convey land or transfer some heirloom to B. Equity will consider this as done, because it would have, and would at all times have had, power to enforce such agreement. But if A agreed to transfer to B five hundred specified tons of pig iron, a staple article, equity would not consider that as done, (though morally the equity is as great in the one case as in the other) because it would have no power under its established rules to enforce such an agreement. The maxim would more exactly express the rules governing the court of chancery if worded thus: "A court of equity will consider as done what it would have decreed to be done."

In *Ordway* v. *Smith*, 53 Iowa, 589, 591 [1880], a deed of lands of an insane person was delivered on Aug. 17, 1870, in pursuance of an agreement for sale of the property alleged to have been made July 11, 1868, the date of the deed. The sale was made in pursuance of an order of court issued in 1867, and was confirmed by order of court dated Aug. 22, 1870. By the law of Iowa the assessors were authorized to exempt from taxation property of insane persons, and in 1867 the land in question had been entered on the assessor's books, "not taxable, insane." It was not in fact assessed in 1868 or 1869, but in 1870 or 1871 the county treasurer made an assessment of the real estate as of the years 1869 and 1870 in the name of the purchaser, Ellen Smith. Under the assessment the land was sold for taxes. The court held that there was not sufficient evidence of an agreement for a sale in 1868, but that if there had been, still the tax could probably not be sustained, saying:—

"It is probably true that the sale and conveyance, when approved by the court, relate back so as to vest the title in the vendee from the time the sale was actually made. But inasmuch as no title passed until the confirmation, the question is whether the defendant owned a taxable title until that time. If the title was not in the defendant, Ellen Smith, it must have been in the insane person, and when owned by him the real estate was not subject to taxation. But it may be said, if the defendant was the owner of an equitable title, the real estate was taxable. We incline to think, however, that such equitable title must have been enforceable; that is, such a title as Ellen Smith could have enforced by an action for specific performance. This she could not have done, as it was within the discretion of the court to confirm the sale or not. The 'accepted bidder acquires by the mere acceptance of his bid no independent right . . . ; he merely is a preferred proposer until confirmation of the sale by the court as agreed to by its ministerial agent.' Rorer on Judicial Sales, Sect. 124, and authorities cited. 'The matter of confirmation rests so peculiarly upon the wise discretion of the court, . . . that it is difficult to come to any absolute legal rule on the subject other than a sound legal discre-

tion.' Rorer on Judicial Sales, Sect. 128. We regard it, therefore, as doubtful whether the defendant was the owner of a taxable title in 1869 or 1870, until after the confirmation."

The inapplicability of the maxim to cases like that at bar appears clearly as soon as an attempt to apply it is made. In equity, when an agreement to convey real estate is entered into, the purchaser acquires an immediate equity in the land, the seller in the money, or, at least, such is the case as soon as the money should be paid by the agreement and the land conveyed. But no matter what the obligation of the contract with the United States nor the terms of the act, the mere existence of the obligation or of the right to perform certain conditions will not create a taxable estate in the individual;[1] actual performance of all conditions is a prerequisite.

Certainly while the courts refuse to consider any land to which an individual claims title, as public property within the meaning of the grants to railroad companies, although it be subsequently established that such claim was invalid —

Newhall *v.* Sanger, 92 U. S. 761, [1875],
Doolan *v.* Carr, 125 U. S. 618 [1887],
United States *v.* McLaughlin, 127 U. S. 428 [1888],

they should not hold land to be private property within the meaning of the same grant when the title of the alleged grantee is denied and his enjoyment of the premises prohibited by the government.

Third. The maxim that "Equity will consider as done what should be done" has no application to the case at bar, because that maxim can be invoked only in aid of justice and not for its defeat. Where a certificate holder is in possession of land, and with the consent of the government enjoys, and is likely to continue to enjoy, all the substantial benefits of ownership, it seems unjust to allow him to take advantage of delay in the issuing of the patent, and hence the courts were induced to hold the land taxable by the State under such circumstances. But where a claimant like the plaintiff in the present case is excluded from the possession of the land and its right thereto is persistently denied, equity and good conscience demand that it should not be taxed on account of that which it was not permitted to enjoy, and to which, through no fault of its own, it failed to obtain a title.

If it were the State government instead of the Federal which denied to the individual the right to the land and withheld the enjoyment thereof, the State would obviously be estopped from asserting

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[1] See Mo. River, etc., R. R. Co. *v.* Morris, 13 Kans. 302, 314 [1874].

Bellinger v. *White*, 5 Neb. 399 [1877], seems to hold the estate of the homesteader taxable as soon as he is entitled to make final proof. If the case is inconsistent with the proposition stated in the text, it must be considered overruled, so far as this court is concerned, by *Northern Pacific R. R. v. Traill Co.*, 115 U. S. 600, 610 [1885].

its power of taxing the land as the property of the individual.[1] But the demands of justice are not different where, under our dual sovereignty, it is the Federal government which denies the right of the individual, and which prohibits his enjoyment of the land.

State taxation of lands of which the United States has the legal title and claims the beneficial ownership, is subject to an objection no less grave and far more specific than that such taxation is flagrantly unjust. It is a breach of the fundamental law by which the State covenanted not to interfere with the primary disposition of the public domain or to tax the property of the United States. Shall the State have power to declare that lands which once confessedly were the property of the United States, of which it still holds the legal title and which it claims still to own, no longer belong to it? Shall the State be authorized to vest the possession of such property in an individual and endow him with that evidence of title which the government could overcome only by a legal proceeding? Shall the United States, which has sedulously reserved to the political department of its government the decision of questions relating to the public domain and denied to its own courts all jurisdiction to determine such questions in proceedings against it, be compelled by

[1] In *Iowa Railroad Land Co.* v. *Story Co.*, 36 Iowa, 48 [1872], suit was brought to set aside a tax sale of land granted to Story County by the United States and the State of Iowa, and by that county agreed to be granted to the plaintiff's grantor, to aid in the construction of the Cedar Rapids and Missouri Railroad Company. The taxes which were assessed upon the land before the conveyance was made were held void, the reason for the decision being thus stated: —

"The railroad was completed according to the contract on the fourth day of July, 1864, and within the time specified. On the fifth day of September, 1864, the railroad company formally notified the board of supervisors of the completion of the railroad, etc., and demanded a fulfilment of the contract on the part of the county. This demand was repeated frequently and at every meeting of the board; but under various excuses, real or fancied, the board of supervisors neglected and refused to comply with said request until June 5, 1867, and then only conveyed a part of said lands and that part only upon the precedent condition that the railroad company should execute and deliver to the county a quit-claim deed for the part of said lands not then conveyed by the county to the railroad company. In the mean time, and while the county was thus refusing to convey the said lands to the railroad company, and was itself holding the title and denying the right of the railroad company to it, the said county caused said lands to be taxed for the years 1865 and 1866, and a part of them for the year 1864, and afterward caused the same to be sold for such taxes to the other defendants in this case. Under these facts we do not stop to inquire what would be the rule respecting liability for taxes, as between vendor and purchaser, in cases where the latter, by performance of his contract, has become the owner, though the legal title is in the former, because we ground our support of the plaintiff's case upon this plain rule of fair dealing and the broad principle of equity, that a party shall not wrongfully withhold the title to property and the benefits of ownership thereof from one entitled thereto, and at the same time subject the property to burdens for the benefit of the party thus wrongfully withholding the title. In other words, the county having, during those years, denied the right and title under which the plaintiff claims, is now equitably estopped from asserting that it then had the title."

The distinction is obvious between the case where the sovereign who holds the legal title, and whose property is exempt from taxation, denies the ownership in the subject, and where there is simply a contest which of two private individuals has the legal title. In the latter case it is immaterial who is the owner, since in either event the land is taxable.

the State to enter those very courts as a humble petitioner to pray that a cloud be removed from the title to its own property and that its rights be protected from depredations purporting to be sanctioned by State authority? If the power exists to tax land to which the government claims title, all measures adopted to reserve to the political department the administration of the public domain have been nugatory, and by a simple device the private individual may ordinarily secure what he has hitherto sought in vain, namely, the determination of his rights by a legal tribunal within his own district. Once permit the State to cloud the title by a tax deed, and the government must, in order to render its title marketable, commence proceedings in the courts to establish its rights. Once permit the individual to enter upon the land and exercise the rights of ownership, and the government must, in order to protect its property, establish its rights in the courts. If those rights are determined by the court in favor of the individual, what matters it to him whether a patent issues or not? The claimant's rights have been irrevocably established and he has record evidence of them. Thus, if the State authorities will only tax the land, the subject can, by buying it in on a tax sale, put the United States into the dilemma of either losing all that is valuable in the land or submitting to the determination of a judicial tribunal the question whether it has parted with its interest in the property.

The case of *Gibson* v. *Chouteau*, 13 Wall. 92 [1871], furnishes an instance of an attempt, not unlike that made in the case at bar, to interfere with the action of the United States in the disposition of the public domain. There an entry upon the land in Missouri had been made in 1818, but through the action or inaction of the government the title was withheld until 1862. It was contended that the equitable title had passed previously to the issue of the patent, and that as under the laws of Missouri the owner of the equitable title could have maintained ejectment, the statute of limitations should be held to have run against him. The court declined to assent to this position, saying: —

"With respect to the public domain, the Constitution vests in Congress the power of disposition and the power of making all needful rules and regulations. That power is subject to no limitations. Congress has the absolute right to prescribe the times, the conditions, and the mode of transferring this property, or any part of it, and to designate the persons to whom the transfer shall be made. No State legislation can interfere with this right or embarrass its exercise; and to prevent the possibility of any attempted interference with it, a provision has been usually inserted in the compacts by which the new States have been admitted into the Union, that such interference with the primary disposal of the soil of the United States shall never be made. Such provision was inserted in the act admitting Missouri, and it is embodied in the present Constitution, with the further clause that the Legislature shall also not interfere 'with any regulation that Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers.'

"The same principle which forbids any State legislation interfering with the power of Congress to dispose of the public property of the United States,

also forbids any legislation depriving the grantees of the United States of the possession and enjoyment of the property granted by reason of any delay in the transfer of the title after the initiation of proceedings for its acquisition. The consummation of the title is not a matter which the grantees can control, but one which rests entirely with the government. With the legal title, when transferred, goes the right to possess and enjoy the land, and it would amount to a denial of the power of disposal in Congress if these benefits, which should follow upon the acquisition of that title, could be forfeited because they were not asserted before that title was issued."

Would it not equally deprive "the grantees of the United States of the possession and enjoyment of the property granted" to permit the land to be sold for taxes at a time when they could not know whether they would ever receive the same and were debarred from all use thereof? Would it not "amount to a denial of the power of disposal in Congress, if these benefits which should follow upon the acquisition of that [legal] title could be forfeited because they were not asserted [*i. e.*, protected by payment of taxes] before that title was issued"?

We submit, therefore, that the decisions which establish the right of the State under certain circumstances to tax unpatented lands present an exception to the general rule which exempts from taxation all lands of which the United States holds the title; that this exception has its origin in the demands of justice and is limited in its scope to those cases where the immediate right of the claimant to a patent for the land and to its full enjoyment is conceded by the government; that in the case at bar the plaintiff's right to a patent for any of the lands referred to in the bill, and to their enjoyment, was persistently denied by the government, that hence those lands were not taxable in 1883, and that all the relief prayed for should be granted.

C.

The doctrine of relation cannot be invoked to render valid the taxation of the lands.

The tax was assessed in 1883; the plaintiff acquired title from the State of Wisconsin in 1884.

"The doctrine of relation is a fiction of law adopted by the courts solely for the purpose of justice, and is only applied for the security and protection of persons who stand in some privity with the party that initiated proceedings for the land and acquired the equitable claim or right to the title."

Field, J., in Gibson *v.* Chouteau, 13 Wall. 92, 101 [1871].

"The doctrine of relation cannot be applied to a case like the present. A tax, to be valid, must be so at the time it is laid. . . . The whole proceeding has relation to that time, and the right to tax must then exist. If the land be not then taxable, subsequent events cannot make it so, or cure the imperfection."

Dixon, C. J., *diss.* in Ross *v.* Supervisor, 12 Wis. 26 [1860].

In *Reynolds* v. *County of Plymouth*, 55 Iowa, 90, 93 [1880], the plaintiff located certain lands with scrip and a patent was issued therefor, but not being called for, was never delivered to the plaintiff. After several years, the scrip was discovered to be forged, the entry was cancelled, the plaintiff was permitted to make a new entry of the land, and a patent was issued to him thereon. In an action brought by him to set aside taxes levied on the land prior to the issuing of the new patent, the court held that the plaintiff acquired no title by the first entry which rendered the land subject to taxation. The defendants thereupon insisted that the title acquired by the second patent related back to the original location, but the court held the land exempt, and said: —

"The law will not, in order to hold land subject to taxation, presume the existence of either title or equity. In order to protect a title or attain the ends of justice, the courts will, under the doctrine of relation, which is a fiction in law, hold that the title began upon the entry or location of the public lands, but this doctrine cannot be invoked to burden the holder of a title, and require him, in violation of justice, to pay taxes when he has neither the equity nor title to the land."

See also

Grant *v.* Land Company, 54 Iowa, 673, 676 [1880].
Bronson *v.* Kukuk, 3 Dillon, 490 [1874].
Calder *v.* Keegan, 30 Wis. 126 [1872].

This court has several times declined, in cases involving the same principle as the case at bar, to invoke the doctrine of relation in furtherance of injustice.

Thus in *Gibson* v. *Chouteau*, 13 Wall. 92 [1871], plaintiff claimed under a United States patent issued in 1862; but the location of the land under which the plaintiff's title was acquired from the United States was made in 1818, and the equitable title then acquired. Defendant set up the statute of limitations, relying upon possession for more than ten years, and the fact that under the law of Missouri the equitable title held previous to the issuing of the patent would have sustained a writ of ejectment. The Supreme Court of Missouri held that by virtue of the doctrine of relation "the legal title when it passed out of the United States instantly dropped back in time to the location of the first act or inception of the conveyance, and vested the title in the ownership of the equity as of that date," but their decision was reversed on the ground that the doctrine of relation could not there be applied.

Again, in *Newhall* v. *Sanger*, 92 U. S. 761 [1875], one Newhall, claiming through the Western Pacific Railroad Company, and a patent issued in 1870, under the Pacific Railroad Act, so called, contested a claim made by one Sanger, claiming title under a junior patent. At the time of the withdrawal in behalf of the railroad company to whom the senior patent was issued, the land covered thereby was involved in a controversy touching the validity of a Mexican claim which covered the same land. The lands were withdrawn, Jan. 31, 1865, and the Mexican claim was rejected by the Supreme Court, Feb. 13, 1865. The title of the parties claiming under the senior patent was held good, and the party claiming under the junior patent appealed to this court, where the judgment of the court below was reversed. Among other grounds for affirmance it was urged by the appellee that the judgment of the Supreme Court rejecting the Mexican claim should, by relation, be considered as having been rendered on the first day thereof, but the position was held untenable, and the court said: —

> "There is a fiction in law that a term consists of but one day, but such fiction is tolerated by the courts only for the purposes of justice. To antedate the judicial rejection of a claim so as to render operative a grant which otherwise would be without effect, does not advance justice and cannot be sanctioned."

The doctrine of relation has, it is true, been invoked by several courts to sustain the taxation of lands where the title of the supposed grantee proved to have been defective at the time of the assessment and was subsequently validated by a confirmatory act or a substituted entry. It is doubtful whether these decisions can be reconciled with the rules established by the best considered cases, but even if they be adopted as a proper exposition of the law, they afford no precedent for the taxation of the plaintiff's lands. Those cases proceed upon the ground that the grantees in each instance claimed title to the land at the time of the assessment and enjoyed the use thereof, either with the express or implied sanction of the

government, and that the defect in the title, when discovered, was remedied by the sovereign power.

Thus in *Stryker* v. *Polk Co.*, 22 Iowa, 131 [1867], where land above Racoon Forks, supposed to have been included in the Des Moines River grant, was conveyed away by the State and taxed, and afterward, when the court had declared that the land was not embraced within the grant, Congress confirmed the title of the settlers, and the court, invoking the doctrine of relation, held the tax valid. The statement of facts shows specifically that —

"After the passage of this act and until the decision of the Supreme Court of the United States, in December, 1859, the executive and official agents of the Federal and State governments regarded as embracing, and treated the grant in said act contained as including and conveying to the State of Iowa, all unappropriated lands lying in the alternate sections designated by odd numbers within five miles of the Des Moines River, from its mouth to its source; and a great portion of said lands were, by the proper and duly constituted officers and agents of the United States, certified to the said State of Iowa as being a part of said grant and as passing to the said State under and by virtue thereof, for the purposes in said act contemplated."

And the court said: —

"The equity at least acquired by the original certificate from the Federal authorities and the deed from the State formed the basis upon which he now claims a perfect title. Such a case is very different from the one where the taxing power insists upon imposing the burden, and at the same time denies that any title of any kind has ever passed from the State or the United States."[1]

So in *Ross* v. *Supervisors*, 12 Wis. 26 [1860], where the title of a grantee from the State of land in one of the even-numbered sections in the Fox and Wisconsin River Improvement grant was defective, because the act had provided that the selections made by the governor of the State of Wisconsin should be approved by the President, and the President never had approved the selections made, the court held, by a majority of two to one, that a subsequent act confirming the title of the settler validated the assessment and sale for taxes made prior to such confirmatory act. The reasoning of Chief Justice Dixon, who rendered the dissenting opinion, seems unanswerable, but even here the majority of the court proceed upon the ground that the plaintiff claimed title at the time of such assessment, believed he had such title, and had the full enjoyment of the land.

In *Wheeler* v. *Merriman*, 30 Minn. 372 [1883], where entry was made in 1857, the issue of patent suspended on account of alleged forged assignment of warrant, and in 1880 another warrant substituted, the money paid and patent issued, the sale upon[2] taxes

[1] Litchfield *v.* Ham. Co., 40 Iowa, 66 [1874]; Goodnow *v.* Wells, 67 Iowa, 654 [1885], and Goodnow *v.* Litchfield, 67 Iowa, 691 [1885], are to the same effect.

[2] The case seems irreconcilable with Reynolds *v* Plymouth Co., 55 Iowa, 90 [1880]; Bronson *v.* Kukuk, 3 Dill. 490 [1874]; and Pitts *v.* Clay, 27 Fed. Rep. 635 [1886].

assessed in the period between 1857 and 1880 was held valid under the doctrine of relation, the court saying that the warrant had never been cancelled but merely suspended; but there, too, the fact that the enjoyment of the land had been undisturbed was, undoubtedly, of controlling weight with the court.

The impropriety of invoking the doctrine of relation in order to sustain State taxation of unpatented lands was well expressed by Circuit Judge Dillon in *Bronson* v. *Kukuk*, 3 Dill. 490, 494, 495 [1874], a case where substitution was made for a forged warrant:—

"Another position taken by the defendant's counsel is, that as the patent recites and the evidence shows that the second warrant was *substituted* for the first, this *substitution* has the effect to make the plaintiff's title relate back to the entry of 1853 under the first warrant. There is no statute giving the plaintiff the right to make such a substitution or declaring the effect of it. Natural justice, indeed, would dictate that he should have an opportunity preferably to others to pay for the land, and this was properly given to him, *ex gratia*, not of legal right; but as against the government, he cannot be regarded as having purchased and paid for the land until he located a valid warrant upon it, and until payment for the land had been made it was not taxable.

"It is insisted, however, for the defendant, that although it be true that as against the government the sale of the land for taxes was not valid, yet the plaintiff is *estopped*, as against the defendant, from asserting such invalidity. But why? The plaintiff has had no transaction with the tax-title purchaser or with the defendant claiming under the tax-title purchaser. He has made no representations to either of them and they have no covenant of his, nor is there any grant or warranty by him so that his title acquired by the location of the second warrant and the patent will inure to them. A purchaser at tax sale buys upon his own suggestion and at his own risk as to the title he obtains, and a subsequently acquired title does not inure to his benefit."

We submit, therefore, that the facts of the case preclude the court from applying the doctrine of relation, and thereby holding taxable in 1883 lands which were then unpatented, of which the plaintiff never had the enjoyment, and to which the United States still claimed title.

D.

The doctrine of grants in præsenti *cannot be invoked to render valid the taxation of the land.*

It may be contended that the plaintiff's position is inconsistent with the numerous decisions of this court which have construed the railroad land grant acts to be grants *in præsenti*, operating, so far as concerns the place lands, from the time of the definite location of the road; but no such inconsistency in fact exists, for,

I. The questions at issue in those cases were different.

II. The language of the statutes under which the parties claimed title in those cases was different.

I.

Those cases did not involve the question whether a perfect title, either legal or equitable, had passed to the beneficiary under the act. The only question arising there was whether an inchoate interest had attached to specific parcels of land so as to give the right of possession as against a subsequent grantee or a mere intruder. In other words, the issue was not whether a perfect title, legal or equitable, had been acquired, but whether there had been created a right or equity to earn such title.

It will be found upon examination that all the cases where the railroad land grant acts have been declared by the court to operate as grants *in præsenti*, fall under one of two heads, either

First. Cases presenting a contest between two rival claimants, each seeking to derive title under Federal grants and each asserting that he had the better title to land as to which both assumed the government had parted with all title.

Mo., Kans. & Texas R. R. *v.* Kansas Pac. Ry. Co., 97 U. S. 491 [1878].
Grinnell *v.* R. R. Co., 103 U. S. 739 [1880].
R. R. Co. *v.* Baldwin, 103 U. S. 426 [1880].
Wood *v.* R. R. Co., 104 U. S. 329 [1881].
St. Paul & Sioux City R. R. *v.* R. R., 112 U. S. 720 [1885].

Second. Cases presenting the inquiry whether the beneficiary under the act did at the date of the grant or the date of the location acquire such title in the land as would enable him to sustain an action against a mere intruder who had no semblance of right, inchoate or otherwise.

Denney *v.* Dodson, 32 Fed. Rep. 899 [1887.]
Schulenberg *v.* Harriman, 21 Wall. 44 [1874.]

In the first class of cases the court held that the title, when acquired, related back for certain purposes to the date of the grant, for other purposes to the date of the location so far as to cut off intervening rights. In the second class of cases the beneficiary's right to possession was enforced. But in none of the cases of either class did the question arise whether the State or the railroad company had acquired a perfect title from the United States, or whether the land had been freed from Federal control.

Other decisions of this court show that the words "grant *in præsenti*" were used there in a specific and limited meaning; for wherever it became material to distinguish a "grant *in præsenti*" or a mere attaching of an interest from an actual conveyance of the land, such distinction was clearly drawn.

Thus, although in *Railroad* v. *Prescott*, 16 Wall. 603 [1872], and *Railroad Co.* v. *McShane*, 22 Wall. 444 [1874], Sect. 3 of the Act of July 1, 1862, under which the companies claimed the land, provided: —

> "That there be and hereby is granted to such company, for the purpose of aiding in the construction, every alternate section of public land," etc.;

and these precise words have been declared repeatedly to import a present grant, yet the court held that, even upon the completion of the railway, the title did not pass as between the company and the United States so as to render the lands taxable by the State, because Sect. 21 of the Statute of July 2, 1864, provided: —

> "That before any land granted by this act shall be conveyed to any company or party entitled thereto, under this act, there shall first be paid into the treasury of the United States the cost of surveying, selecting and conveying the same by the said company or party in interest," etc.;

and such cost had not in fact been paid.

So in *Northern Pacific Railroad Co.* v. *Traill Co.*, 115 U. S. 600 [1885], the Act of July 2, 1864, under which that company claimed the land, provided: —

> "And be it further enacted that there be and hereby is granted to the Northern Pacific Railroad Company, and its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, alternate sections of public lands," etc.;

and yet the court held, that as between the Northern Pacific Railroad Company and the United States, a title had not passed, and the Territory of Dakota could not tax the land, because the Act of July 1, 1870, had provided: —

> "That before any land granted to said company by the United States shall be conveyed to any party entitled thereto, under any of the acts incorporating or relating to said company, there shall first be paid into the treasury of the United States the cost of surveying, selecting and conveying the same by said company or any party in interest";

and no such payment had in fact been made.

On the other hand, when the question arose under the same acts between the railroad company and another company claiming under later grants, the acts were held to import a grant *in præsenti* so as to give the beneficiary under the earlier act a prior right from the date of the act.

Mo., Kans. & Texas Ry. Co. *v.* Kans. Pac. Ry. Co., 97 U. S. 491 [1878].

See also

Grinnell *v.* R. R., 103 U. S. 739 [1880].
Railroad *v.* Baldwin, 103 U. S. 426 [1880].
Wood *v.* Railroad, 104 U. S. 329 [1881].
St. Paul & Sioux City Railway *v.* R. R., 112 U. S. 720 [1885].

II.

The language of the Act of May 5, 1864, differs materially from that employed in any of the acts which have been construed by the court to operate as grants *in præsenti*.

The acts passed upon in those cases may be divided into two classes: —

First. Where the act does not contemplate the execution of any subsequent conveyance or the doing of any subsequent act by the government before vesting the title, and there being nothing to modify or limit the words of present grant, they are allowed full effect.

Schulenberg *v.* Harriman, 21 Wall. 44 [1874].
Tucker *v.* Ferguson, 22 Wall. 527 [1874].

Second. Where the act expressly provides for subsequent governmental action by a special tribunal and makes the decision of such special tribunal a substitute for the action of the land department and conclusive evidence of the company's right to a patent.

U. S. *v.* Childers, 8 Sawyer, 171 [1882].
Denny *v.* Dodson, 32 Fed. Rep. 899 [1887].

The provisions of the Act of May 5, 1864, disclose an intention different from that expressed in the acts of either of the preceding classes. Unlike the statutes of the first class it does contemplate some further action; unlike the statutes of the second class, it reserves that action to the Land Department instead of deputing it to some special tribunal; and it is by the issuance of a patent that such action is to be indicated.

The words of present grant, contained in Sect. 3 of the Act of May 5, 1864, "that there be and hereby is granted." are limited by Sect. 7, which declares that "patents shall in like manner issue as

[and only as] each twenty miles of road is completed," and by Sect. 8, which declares that "when patented [and only when patented] as provided in Sect. 7 of the act [the lands shall be] subject to the disposal of the companies respectively entitled thereto," thus showing the intention of the government of retaining the control by prohibiting the disposition of the land until patents shall have issued; an intention which is clearly subject to be defeated if the land should become taxable and hence liable to be sold for taxes.

The statement in Sect. 3 of the Act of May 5, 1864, that the grant is made "upon the same terms and conditions as are contained" in the previous Act of June 3, 1856, must be construed as subject to the implied qualification "except as hereinafter otherwise expressed." The subsequent provisions of the Act of May 5, 1864, are entirely irreconcilable with some of the provisions in the earlier Act of 1856; and the subsequent provisions must control.

The nature of the grant made to the plaintiffs by Sect. 3 of the Act of May 5, 1864, was not one of the questions passed upon in *Schulenberg* v. *Harriman*, 21 Wall. 44. That case was considered by the court as turning upon the construction of the Act of June 3, 1856. By the Act of 1856 there was a present grant to the State (to aid the building of a railroad between certain points) of lands within a place limit of six miles and an indemnity limit of nine miles outside the place limits. This road not having been built, Congress, on May 5, 1864, passed an act, granting, in Sects. 1 and 2, additional lands to the road first named (divided into two parts), and also granting, in Sect. 3, lands to a new road on a new route not included in the Act of 1856. The additional grant in Sects. 1 and 2 gave the old road place lands within an additional limit of four miles, and indemnity lands within an additional limit of five miles, beyond the limits in the Act of 1856. In other words, the Act of 1864 extended the place limits from six miles to ten miles, and extended the indemnity belt from a fifteen-mile limit to a twenty-mile limit.

Now the lands in question in *Schulenberg* v. *Harriman* were not a part of the additional grant of 1864, but were included in the original grant of 1856. The case expressly states (21 Wallace, 46) that the logs claimed "were cut on lands embraced in an act of Congress approved June 3, 1856." The opinion of the court in relation to the nature of the grant discusses throughout two pages (60–62) the meaning of the Act of 1856, holds that it "passed a present interest in the lands designated," and makes no allusion in this connection to the Act of 1864 except the following paragraph at the close of this branch of the opinion (page 62):—

"The grant of additional land by the first section of the act of Congress of 1864 is similar in its language and is subject to the same terms and conditions as the grant by the Act of 1856. With the other grants, made by the Act of 1864, we are not concerned in the present case."

It is very evident that the question as to the nature of the grant made to the new road by Sect. 3 of the Act of 1864 was not before the court for decision in *Schulenberg* v. *Harriman*, and that no opinion was intended to be intimated upon it. Even if it should now be thought that the court then erred in taking the view that the provisions in Sects. 7 and 8 of the Act of 1864 were not intended to affect the lands included in the previous grant of 1856, it is nevertheless certain that the court did not then give any opinion as to the effect those sections would have had if they had been deemed applicable to those lands. And it is equally certain that the Court did not then give any opinion as to the effect of Sects. 7 and 8 upon the grant made to the new road by Sect. 3 of the Act of 1864.

We submit, therefore, in conclusion, that neither the doctrine of grants in *præsenti*, nor that of relation, can be invoked to render these lands taxable; that the plaintiff is entitled to the relief prayed for, and that the judgment of the Supreme Court of Wisconsin should be reversed.

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LOUIS D. BRANDEIS,
Attorneys for Plaintiff in Error.

JEREMIAH SMITH,
Of Counsel.

WASHINGTON, October, 1889.

CORBIN, MAY & CO.'S PRICE LIST.

Nos. 87 and 89 Michigan Avenue, Chicago.

Feb. 2 **IMPORTERS OF TEAS AND WHOLESALE GROCERS.** Feb. 2

We employ no Traveling Salesmen, but allow SPECIAL DISCOUNTS in ADDITION to the usual Cash Discounts, for orders by mail, equivalent to that expense. Prices uniformly as Low as the Lowest. See table of Time, Discounts, etc.

DISCOUNTS.

An (*) is used to designate goods on which we give only the usual cash, or the manufacturer's limit discount.

FROM LIST PRICES AND TERMS- 30, 60, 90 days and 4 months.

Teas in original packages, Time 4 mos., with a Discount from List Prices of 3 per cent.

Teas, less than original pkgs., Time 60 days, and a charge for caddies,

Cigars, 1,000 lots and over, Time 90 days, with a Discount from List Prices of 3 per cent.

Coffee (Bags Tared 1 pr ct.), Time 60 days, and Discount from List Prices of 1 per cent.

Other 60-day Goods, Discount from List Prices of 1½ per cent.

Sugar, Time 30 days with a Discount from List Prices of one-half of 1 per cent.

Other 30-day Goods, Discount from List Prices of 1 per cent.

Unless Bills are paid when due, the foregoing Discounts cannot be allowed.

Also, an additional discount is allowed when Cash is paid before bills are due at the rate of 1 per cent per month for *unexpired* time. On remittances *received* within 7 days from date of Invoice, full time in Cash Discounts allowed.

1

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SUGAR—Time, 30 days.

Special Discount half of 1 per cent.

Cash Discount, 1 per cent.

All the qualities are correctly indicated by the prices that range down the list, from Standard A and in ordering, it is only necessary to specify the number at left hand of column. Prices subject to *important* market changes, advance or decline,—fairness to both interests, with a leaning to that of the buyer.

Cut Loaf, H. & E, old style	7⅜
Cut Loaf, Cubes, Brooklyn and D & D	7⅛
Powdered, Stand. Rfy, Franklin, strict stand'd	7 18
Granulated, strict Standard, med. coarse. Brooklyn, Franklin, H & E	6 81
Granulated Standard Fine. D & M, for Franklin	6 81
Stand. A,—Brook. Frank., H & E, coarse grain	6¼
La. Std. A, "Belleveu pure white" grainy, best.	6½
No.	
2—H & E, No. 983, off A, soft white, fresh	6¼
4—H & E, white ex. C, No. 9[illegible]. soft white	6 18
5—H & E, wh. ex. C, No. 25 fresh made	6¼
6¼—*To arrive* 6th to 8th, Brook No. 150, grainy	6 06
7⅛—Brook. No. 107, bright, grainy, ex. quality	5 91
8—	
8¼—Brook. No. 92, light, golden, grainy, stylish	5 81
9—Brook. Golden C, No. 89, bright, grainy	5 69
9⅝—Brock. No 108, bright, grainy, free	5½
10—Std. Rfy, No. 173, bright, free	5½
10¼—Std. Rfy, No. 1761, bright, free for grade	5 44
13—Frank. Rfy, Am. C, dark, fairly free	5⅛
Open Kettle, N. O. Artridge No. 1, hard cooked, grainy, bright, usual drieth; bbls	5¼

Maple Sugar—30 days.

Clear Quill, *strictly pure*, 1885, sml cks, 25-lb bx. 10

Clear Quill, as above, 1, 2 4-lb bricks, asstd, by bbl, 9⅝c; 50-lb bxs 9⅜

TEAS.—Time 4 Months.

Special Discount, 3 per cent. Cash Discount, 1 per cent. per Month, Additional.

The "Coming Tea" that Has Come! We introduced *unscented Tea* Japans by importing about 1,000 pkgs. of the "Panfired Uncolored" teas in 1879, 1880, we brought about 4,000 pkgs.; 1881,'82,'83,'84 and '85 respectively, double that quantity. Our sales are exclusively to retailers; prices have been kept inside of market values as compared with other teas. Our stock is large and assortment complete. Success proves that we were *right*; when they are informed of it, people *do not* want black lead and Prussian blue in their tea. We have excluded painted Japans from our stock.

In Cabin Grocer, Odessa, Caucasus, &c., *intrinsic* worth is our standard, and our prices are lower than is customary. Perfect satisfaction guarantee

2

JAPAN—Uncolored Pan-Fired

The Tycoons.

These teas are prepared in accordance with our instructions, having special reference to the wants of consumers, consequently in the interests of the retailer. In true merit they are superior to any other make of Japan teas, for these reasons: They are pure; are thoroughly "fired," and therefore will keep fresh and sweet for a full season and longer; tae leaf is selected for its character of fineness, fullness of strength, true tea flavor, and from the best of the crop. Our stock is large and is kept complete in all grades throughout the season, exclusively of our own importations, having special reference to the wants of the retail trade. The advantages are obvious.

Lots of 5 pkgs or more, 1 cent off.

Tycoon No. 35 or 50—April growth, 1885; superior to that we sold throughout last season at 45@48c.; will be our standard highest grade for this entire season; lowest price ever made for this grade; costs only 39¾c. included in 5-pkg lots, 4 months time, special discount off; (Same terms for other grades.) single pkg 42

Tycoon No. 57.—April growth, 1885; fully up to that we sold last season at 43 @ 44c.; with many this grade is sold for very "best" 40

Tycoon No. 24/5.—April growth, 1885; strictly choice; we sold this grade last season, for 42c.; now 39

Tycoon No. 61.—May pickings, '85; choice; very fine, toasty flavor, nice leaf; extra trade 38

Tycoon No. 146 7. May growth, choice in cup, solid leaf, extra full strength; 38c grade last season 35

TycoonNo. 105 —May tea, strictly "Finest"; superior to last season's 36c. grade, now 34

Tycoon No. 117 or 125—May growth, strictly Fine, ex, strength; better than last season's 35c. grade, good 50-center; 33

Tycoon No. 129/30—June pickings, grade Fine, extra cup quality, full strength, good 50-center 32

Tycoon No. 210/11—June tea, Fine, full strength, guaranteed to suit, extra trade 31

Tycoon No. 207/8—June tea, 33c. grade last season; guaranteed cheap and desirable 30

Tycoon No. 222.—June pickings, '85, good medium to fine; extra trade in all respects; guaranteed cheap and O. K. 29

Tycoon No. 228.—June tea, crop '85; desirable at price; 30c. grade last season; toasty, extra strength, can be retailed 2½ lbs for $1.00 26

Tycoon No. 230—Early crop 1885, pure flavor, good leaf, full strength, low price 26

Tycoon No. 233—Early crop 1885, true flavor, good strength, good leaf for price, O. K 24

Tycoon Siftings.—*All guaranteed pure.*

Lots of 5 packages or more, ½c. off list.

Tycoon No. 704.—From *highest grade*, first pickings, crop '85; nothing imported equal to it in quality at the price, leaf or siftings 23

Tycoon, No. 713.—From highest grades, '85, *first* pickings; equal to 35c. leaf tea 21½

Tycoon, No. —From high grades, spring '85.

Imperial "Nibs." with 5 package, ½c. off.

Tycoon No. 601.—Imperial style, large leaf, from highest grades, first pickings; very fine, sweet, 24

Imperial Nibs Tycoon No. 605—From high grades, spring crop, elegant 22

Tycoon Nibs No.—From fine spring crop, fine and sweet in the cup.

Nibs, Tycoon, No. —From good teas

The Facts.—Five years ago we introduced Siftings from the Tycoon teas, furnishing to the people of the Northwest a strictly pure, thoroughly prepared, fine quality of tea at a low price. There had been a strong prejudice existing in many localities against "tea dust" for several years; on account of the vile compounds of artificial coloring matter, ground refuse and sweepings which had been extensively sold as siftings (or "dust"), but a pure article from the best teas produced, revived the trade, and during the past seasons we have been unable to supply the demand for our brand. Our leaf teas bear a much larger percentage of high grades in spring crop than any other importations; that insures better siftings. We sell some but that which is sifted from our teas. Tycoon "Nibs" equally superior.

3

"Basket Fired" Japan.

I., C. & M. No. 400.—Early spring crop *highest* grade; no black lead "facing" on this—*pure*; guaranteed *choicest* in cup quality 42

I., C. & M. No. 401.—Early spring leaf, strictly *choice*, without the usual black lead finish 35

Young Hyson.

S. Canal, X L N T, No. 274—Choicest full Moyune, small nicely twisted top leaf, very fine 50

Sues Canal, No. 1482.—Strictly Moyune; moderate style, but *choicest* quality; 2 lacquered boxes in case; fully equal to 48@50c. teas in cup 42

Sues Canal, No. 8.—Fine, full Moyune; good leaf, extra good trade 39

Sues Canal, No. 17—Full Moyune, good leaf, toasty flavor, fine, extra strength 36

S. Canal, No. 91.—Strictly Moyune, good leaf, pure flavor, full strength; extra merit 34

Str. & Rl. No. 185—Strictly fine Moyune, good leaf, good strength; as fine flavor as many get at 30 to 35 cents; only 25

Pacific Mail, No. 10—Moyune, sweet, good leaf, ex good strength for price, close 21

Str. & Rl, No. 180.—Fancy, early *first*, choicest Moyune, bold, nicely twisted leaf, none finer 58

Oolong.

Overland, S. F. No. 20—First crop, *very* choice, full, extra fine flavor, true Formosa; 20-lb bxs 58

S. Canal, No. 1/2—First crop, *true* Formosa, high grade, fine, full, toasty flavor; if it can be excelled at 55c., no sale; 20-lb. matted boxes 53

Stmr. & Rl, No. 17/18—First crop Formosa, extra strength, fine flavor, very desirable; close price; matted 20-lb bxs 48

Pac. Mail, No. 43.—First crop *true* Formosa fine, full, rich flavor; guaranteed choice and very cheap; 40-lb. pkgs 45

S. Canal, No. 36—First crop *true* Formosa, extra full flavor, splendid cup quality; close price; 40-lb pkg 40

S. Canal, No. 57,—True Formosa, first crop; full, rich, pure flavor; very desirable, inside price, 40-lb pkg 35

S. Canal, No. 1108—Ampoy, good strength, fair flavor, very close price, half chest 25

S. Canal, No. 48/9.—Fancy Formosa; extra full strength; very desirable if the finest and *best* is wanted; two 10¼-lb bxs in mat 70

Gunpowder.

S. Canal, No. 111.—Finest grown; true Moyune, *first* pickings of spring crop; two 30-lb. lacquered boxes in case 65

Str. & Rl., No. 76.—Small top-leaf, fine *full* Moyune; *very* desirable; *low* price; 60-lb. pkg 60

S. Canal, No. 1.—Strictly choice, extra full strength Moyune; small, early, leaf clipper sure; 60-lb pkg 55

Stmr. & Rl. No. 176—Strictly choice '85, full Moyune; med. small make, very fine, toasty flavor, clipper for price; our risk 52

Str. & Rl. No. 79.—Choice first crop, strict Moyune, medium style, extra for price, 60-lb pkg 45

Overland, No. 235—Choicest Pingsuey; small, round make, extra cup quality; 40-lb pkgs 40

Ov'l'd. No. 1202.—Choice, *true* Moyune; fine, toasty flavor, extra strength; good leaf, inside price; hf. ch 41

P. M. & R.R. No. 1—Pingsuey, unusually good style and strength; ex. cup quality for price; hf. ch 34

Pac. Mail, G. M. No. 1/2—Pingsuey; nice, sweet draw, good strength, small leaf, extra trade, 35-lb bxs 34

Overland, No. 102—Pingsuey '85; fair make, med. small leaf, sweet draw, ex. trade, 35 lb bx. 30

S. Canal, No. 40—Pingsuey, med. small leaf, style and cup quality extra for price, 55-lb. pkgs 24

4

Imperial.

Stmr. & Rl. No. 189—True Moyune, good leaf, choice in all respects 43

Stmr. & Rl. No. 121.—New crop, Moyune, strictly fine, full strength, very low price 37

English Breakfast.

Pac. Mail No. 66.—Strictly fancy quality finest imported this season; some jobbers get 75@85c. for the same, 60-lb pkgs 62

P. M. Str. No. 3.—True Moning Congou, early crop, fine, extra full, rich flavor; ordinarily 60c. tea 49

Via Sues Canal. No. 5.—True China Congou, full, rich flavor; a grade that is usually sold at 40 to 45 35

Sues Canal. No 9/10—Good leaf and draw; a very satisfactory tea for price 28

SYRUP—Time 60 days.

In 5-bbl. lots 1c less than list prices.

Special Discount 7½ Per Ct. Cash Discount 2 Per Ct

	Bbl.	½ bbl.	Kegs. 5 gal.	4½ gal. per keg
Nectar Drips—Pure sugar, best made	33			
Quaker City, all sugar, fancy, very light	30	33	35	1 50
May's CrystalDrips Very fine	29	32	34	1 51
Hawley's Superior Extra sweetness & body	26	29	31	1 40
Havemeyer's Drips, Pure Sugar, light color	25	28	30	1 35
CM&Co White Drps good body, light color	23	26	28	1 25
California Dps, Fine, rich flavor and color	23	26	28	1 25

Pure Sugar Drips, fine flavor, good color, 4-gal. keg at 90

25 Keg lots 85

M. & W., pure sugar, light color, good flavor, 4 gal. kegs, 95; 25-keg lots 90

L. G. YOE & CO.'S.

"MAPLE MOLASSES."—New Englanders will recognize in this the *old-fashioned, home-made* Maple Syrup. For richness and delicacy of flavor it is seldom equaled.

"SUGAR GROVE" MAPLE.—Made from selected Vermont Maple Sugar. It is rich in flavor and a favorite brand for table use.

"VERMONT" MAPLE.—This well-known brand we guarantee to be equal, if not superior, to any of the same name in the market.

Cans, ½ doz. gal. in; 1 doz. ½ gal. in, 2 doz. qts. in.	Per. Gal. Bbl	½ bl	K'g	Per. Doz. 1 gl	½ g	1 qt
Maple Molasses	76	78	S1	1050	5.75	3.00
Sugar Grove	60	62	63	S.30	4.75	2.70
Vermont	57	59	60	8.00	4.50	2.50
Diamond, fancy white	60	62	63	S.30	4.75	2.70
Buckeye, Maple flavored	45	48	50			
O. M. & Co.'s California				4.50	2.75	1.85
" " May's Crystal				5.25	3.25	2.10

Yoe's Pure Maple, fancy grade, absolutely pure.

Barrels	85	Gal. cans, per doz	12 00
½ bbls	87	½ gal. cans, "	6 50
Kegs	90	Quart " "	3 50

MOLASSES—60 days.

N. O. Molasses	
Laurel Grove, choicest grade, splendid bkr, bbl	53
" " ½ bbl	57
N. O. E. D. *new*, choice *kettle*, bbls	48
N. O. E. D., ½ bbls	52
Hermitage, *new*, prime kettle, bbl	42
Belle Terra, *new*, cent'f'g'l, good baker, bbl	38
Diamond, C. Lot B. A.; fine baker, good color	32
Amber Cane, fancy Tennesee, T. T. B'nd, bbls	34
Amber Cane for Sorghum, choice, Y. X., bbls	31
Porto Rico Molasses, Y—Good baker and color	30
Cuba Baking, good baker, reddish color	19
Bee Hive Baking Molasses extra quality	15

5

COFFEE.

Special discount 1 per cent on 60 days time; cash discount 1 per cent per month; 1 per cent tare.

RIO.

C. E. No. 3—Med. color, full size, plump bean, nearly clean 8½

C. P. No. 1.—Med. color, green cast, bright, solid bean, almost clean, crop '84-5, good trade 9

C. J. No. 7.—Choice, desirable dark, large, solid, clean, sure to suit, crop '83, below value 9¾

C. J. No. 6.—Strictly choice, med. color, smooth, bright, flinty bean, crop '83-4, clean 9¾

C. G. No. 2—Strictly prime, crop '83, med. light, golden, extra quality, fine roaster, good style .. 10¼

C. K. No. .—Strictly choice, med. color, dark cast, smooth, bright, solid bean, crop '83-4, close price .....

C. K. No. 16—Strictly choice, med. color, crop '85; bright, smooth, perfectly clean, extra trade 10¾

C. G. No 8.—Strictly choice, crop '83, med light, golden, smooth, uniform bean, fine roaster 10½

C. K. No. 7—Fancy, pea green, crop '85; smooth, bright, uniform, stylish, perfect, very desirable. 10¾

C. K. No. 9—Fancy, med. light pea green, crop '85; bright, smooth, finest grade 10¾

C. K. No. 12—Fancy, dark order, deep pea-green, crop '85; smooth, bright, elegant, none finer ... 10¾

C. K. No. 8—Fancy, med. dark, crop '85; bright, silky, very stylish, perfect, low price 11¼

Golden Rio, C. G No. 18.—Crop 1882-3; bright golden, fair style, splendid roast and drink 12¼

Mexican, M. H. I. C. No. 9—Highest grade, med. light, crop '85, 100 lb bales 11¾

Mexican, Harlan, med. color, extra strength, fine roaster, 200-lb bgs 10¾

Washed Rio, J. N. No. 1.—Choicest, fairly dark, very stylish, crop '84-5, best to be had 12¾

Peaberry Rio, B. No. 2.—Choicest dark, bright, solid, free from flats, O.K. in all respects .. 12¾

Peaberry, O No. 4—Choicest bright pea green, crop '84, practically free from flats 12¾

Peaberry Santos, A 5—Choicest light, golden cast, crop '82-3, scarcely any flats, fine quality 13¼

Santos, C.U. No. 8.—Crop 1882, highest grade, *can't be beaten*, good as general run of Javas 13

Santos, C. No. 4.—Crop 1882; light color, golden cast, very choice roast & drink, bargain. 12

Santos, W.H. C. No. 16—Crop '83, med. light, full size bean, choice roast and drink 11¾

Guatemala, No. 27/8—Genuine; choicest med, pea-green, fine roast and drink; stylish 13

For Roasters.

F. W. No. 1—Med. color, common fair roaster, '83. 7¾

C. J. No. 1-5.—Med. light color, crop 1881-82, some blacks but fair bean, roasts well 8½

C. V. No. .—Med. light, 1884, clean, fine roast .....

C. C. No. .—Crop '84, med. light, bright, clean, extra good roast and drink, extra strength .....

C. S. No. 12.—Med. light, golden cast, crop '83, strictly choice, ex. fine roaster 11¾

Java.

Mandheling Java—Choicest old dk. brown, H C M; sks of 3—65-lb grass mats, *genuine* 22

Java, Genuine C I—Medium brown, choice roast and drink; grass mats, 3 in bag 16½

Y. P. "African Java" or Liberian; large brown, odd, sea-shell-twist bean, best, low-price, 200-lb bags 15

Mocha, circle C, *genuine*, 40-lb and 80-lb bales 21

Mocha, so-called—W D, in 40-lb bales 19½

Coffee—Roasted—60 days.

All are from coffee 2 to 4 years old.

RIO, D grade, common, F. W., No. 1 bulk 9½
" C grade, *good* common, L 1 K 2, bulk 10½
" B grade, fully fair, K. 1-J. 1, old extra, bulk. 10½
" X grade; good plain roast, Q 1, bulk 11¼
" XX " ex good " C. J. 4, " 12¼
" XXX " choice " C G 1 & V 4, " 13¼
" Golden " (from old Golden Rio) H 6, bulk 15¼

Para, choicest old Santos and Rio, ½x½—oak ..
" bbls, iron hoop 16½
" Flour bbls, 15¾; bags 15¾

Mexican, choice in drink, "Harlan," old crop, ... 13

Mexican, M H I C 9—Highest grade 15

Santos, C 23 and 5—Choicest—Old Golden ('80), smooth, elegant roast, none better 15¾

Santos, Z M 4—Crop '82-3, Golden order, clipper.. 14½

Santos, C.G, No. 13, crop '83, fine roast & drink.. 13¾

Peaberry, old Santos, '82-3, C. A. 9, very choice. 16½

Peaberry Rio, '84-85, B 2 ..... 15½

Java, Mandheling, H. C. M., unmixed, splendid ... 26¾

Java, old brown, C I M, choice roast and drink ... 22¾

Java, H C I-S, old crop, choice, try it 19

Mocha, best 26

Sanmoja, 1 lb pkgs, 60 & 100 cases, unequaled 12½

Arbuckle's Ariosa, 30-lb boxes ¼c extra; 60-lb boxes ½c extra; 100-lb cases 12¾

Coffee—Ground—60 days.

Rio — A, fair grade, 60-lb bxs, bbls & hf-bbls 9¾
" AA, good " " " " " 11
"AAA, extra " " " " " 12
Mexicans choice " " " " " 15½
Java, very choice " " " " " 24
Santos, very fine, 30 and " " " " 13½
Demora, choicest " " " " 19

Santos, Extra—1-lb net, round pkgs; tin top and bottom; 30, 60 and 100-lb cases 15½

Demora Extra—Packages and cases as above 2½

Quality guaranteed superior to any sold at price.

6

AXLE GREASE.

Special discount 1½ per cent on 60 days time.

Mica, wood boxes, 4 doz., per case 2 85
" " " per gross 8 50
" 10-lb pails, per doz 6 50
" 15-lb pails, " 8 50
" 25-lb pails, per dozen 13 25
" Per lb in Kegs of 100 to 125 lbs. 4
" Per lb in Bbls of 350 lbs 4

Frazer's, wood boxes, 4 doz. each ..... ℔ case 3 00
Small tins, cases 3 doz. each ..... ℔ doz. 1 25
Medium tins, cases 2 doz. each ..... " 2 25
Large tins, cases 1 doz. each ..... " 3 25
25-lb Wood Pails, each 1 25
15-lb Wood Pails, each 75

Diamond wood boxes, 4 doz., per case 2 00
Paragon, 3 doz. in bx, per bx 1 65

AX HANDLES—60 days, etc.

Turned No. 2, ℔ doz .. 1 15
" 1 " .. 1 50
Extra " .. 1 90
Shaved, X ℔ doz 1 55
XX " 1 80
Packed in 2 doz. cases.

BAKING POWDER.

Special discount 1½ per cent on 60 days time.

Corbin: May & Co.'s Columbia Yeast Powder.

In pound cans only—guaranteed equal to any baking or yeast powder made for *actual good* results, each can marked with selling price, 25 cents; 1 doz. in case, per doz 2.00

C., M. & Co.'s Clear Quill.

Never fails to give satisfaction.

¼-lb. can, 3 doz in, ℔ dz .. 1 10
½ " " 2 " " " .. 2 00
1 " " 1 " " " .. 3 75
10 " " square ℔ lb .. 28
3-lb. Tin Pails, gilt, 1 doz in, ℔ lb 31
5-lb Tin Pails gilt, ht. and 1 ds in ℔ lb .. 30
Fancy Tower can, 30 lbs ℔ lb 32
Bulk, 10, 15, 20, and 25 lb boxes ℔ lb 26

Madame Quinn's Economy.

Satisfaction guaranteed.

Bulk, 10, 15, 20, and 25-lb. boxes ..... ℔ lb 14
Canisters, 1 lb, 1 doz cases ..... ℔ doz 2 00
½ lb, 2 " " ..... " 1 20
¼ lb, 3 " " ..... " 68
⅛ lb, 4 " " ..... " 45

Horsford's Phosphatic.

	Per doz.		Per doz.
Dime bottle 4 dz in bx	.. 85	8-oz bottle 2 dz in bx	.. 2 25
2-oz " 6 " "	.. 75	12-oz " 1 "	.. 3 20
4-oz " 3 " "	.. 1 15	16-oz " 1 "	.. 4 15
6-oz " 2 " "	.. 1 70	5-lb " ½ "	.. 17 50

Acid Phosphate. 8-oz. bottles, per doz 4 00
" " 12-oz. bottles, per doz 8 00

De Land's Chemical.

¼lb cns, 4 dz in, pr dz .. 1.35
6oz " 3 " " " .. 1.90
½lb " 2 " " " .. 2.50
120z cns, 3 dz in, pr dz .. 3.75
1lb " 1 " " " .. 4.80

Dr. Price's Cream.

Dime cans ..... doz .. 95
¼ lb, 3-doz cases " .. 1 45
6-oz. 3-doz " " .. 2 00
½-lb, 2-doz " " .. 2 60
¾-lb, 1-doz " " .. 3 90
1 lb cans ..... doz .. 5 00
2½ lb 1 " " " .. 12 00
4 lb cans ..... " .. 18 25
5 lb " ..... " .. 22 75
10 lb " ..... " .. 44 00

Royal.

10c can, 4 dz cs, ℔ dz .. 96
Cans, ¼ lb, 3 dz cs ℔ dz .. 1 45
6-oz, 3 " " .. 1 95
Cans ½ lb 3 dz cs ℔ dz .. 2 65
120z 1 " " .. 3 90
1 lb 1 " " .. 5 10

BASKETS.

Special discount 1½ per cent on 60 days time.

Market and School.

Market, willow, sml .. 2.50
" " med .. 2.75
" " lge .. 3.50
" Sphnt Oval No. 1 .. 2.00
" " No. 2 .. 2.30
" " No. 3 .. 2.50
" Cov'd Elm No. 1 .. 1.75
" " No. 2 .. 2.00
" Racine, extra 75
Market, Cedar, pr doz .. 60
" Elm .. 45
" 10 doz. lots .. 42
School, Elm splint .. 40
" Cedar .. 55
" Rd. split, 6½ x 19 .. 1.10
Satchel School Cov'd.
No. 1, 5½ 6½ .. 1.20
No. 2, 6½ x 8½ .. 1.50
No. 3, 9½ x 10 .. 1.75
No. 4, 10 x 13½ .. 2.00

Clothes.

Price per doz.	No. 1. small.	No. 2. med.	No. 3. large.
Willow, oval, best	4.00	5.00	6.00
Splint Racine, wood bottom	4.16	4.50	5.00
" " new style		5.75	
" Elm, square corners		3.25	3.50

Rattan, oval patent bot., 3 in nest, per nest 2 75

Corn.

Price per doz.	½ bu.	1 bu.	1½ bu
Stave, St. Joe, Feed Ball	1.75	1.90	
" " St. Joe Safe Handle		1.80	2.30
" Racine, pat. band		2.10	2.60
" William's Oak, ex. h'y			2.40
Splint, stave bottom		2.20	2.75
Bamboo, extra strong		5.50	6.75

BATH BRICK—60 days, etc.

English, 2 doz. ℔ case 80 | Bristol 2 doz ℔ case 55
Acme, pulverized, per case of 36 pkgs 1 25

BLACKING—Shoe.

Special discount 1½ per cent on 60 days time.

Price per doz ..... No.	1	2	3	4	5
Bixby's best, 3 doz in box	23	....	....	45	....
Mason's 2 doz in box	23	....	....	42	....
aquot's, French	....	25	42	60	75

Frank Miller's Waterproof, No. 1, 3 doz boxes 2 85
No. 2, 2 " 2 55

Shoe Dressing.

Japanese Gloss, 1 doz. in., per doz 90
Bixby's Royal Polish, per doz 85
Jettine ..... ℔ doz 75

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BLUING—Dry.

Special discount 1½ per cent on 60 days time.

	No. 1. Small.	No. 2. med.	No. 3. large.
Bengal, Glass Salts, ℔ gr. 3 dz in	$ 9 50		
Bengal, wd bx, sifting, pr gr	2 25	3 00	4 80
" " in 3 dz bxs, pr bx.	57	75	1 20
Taylors, Sifting, ℔ gross	1 25	1 85	2 75
Barlow's, Round box, ℔ gro	3 00	5 75	
" " " ℔ doz	25	50	
Sawyers' Pepper box, ℔ gro	2 75	4 50	5 25
" " " ℔ doz	25	40	48
Bixby's, Round box, ℔ gro		1 65	
" " " ℔ doz		14	
" Pepper " ℔ gro	1 40	2 00	
" " " ℔ doz	13	20	

Bluing—Liquid.

Price per case,	4 oz. 3 doz.	8 oz. 2 doz.	8 oz. 3 doz.	16 oz. 1 doz.
Bengal, sprinkling top	2 40	.....	3 00	.....
Thomsen & Taylor,	65	.....	1 25	75
Gillett	75	.....	1 50	1 00

Bengal Premium Price List.

A beautiful moss rose decorated china tea-set of 70 pieces with every gross.

One gross, 8 oz. Bengal Liquid Bluing $17 50
" " 4 " " " " 15 00
" " Dry " glass salts " 15 00
" " each Dry Nos. 1, 2 & 3 wood bx. bluing 14 00
" " Japanese Gloss Shoe Dressing 15 00
" " Bengal East India Table sauce, ½ pts. 26 00

The order must be for one gross and may be made up from he above list to suit.

Sawyer's Premium Package, 1 gross each of Nos. 1, 2 and 3, Crystal Blue, and 1 fine musical instrument called "Organina," all for $13 25.

BROOMS.

Special discount 1 per cent. on 30 days.

Warehouse, ex heavy .. 3 20
Parlor No. 1 ..... 3 00
" Extra 3 15
Hotel, extra heavy 3 00
Fancy handles 2 75
No. 1, Extra 2 05
No. 2, Extra 2 40
No. 2, Extra 3 00
Whisk, plush side 2 50
Whisk, No 1, pt hd .. 1 50
" 2, " .. 1 25
extra hurl .. 1 15

Daisy Broom Rack, alliron, each 2 75
" with nickel-plated trimmings 3 50
Hatchers' Broom Rack, on castors, holds 24 brooms, each 1 15

BRUSHES—Shoe.

Special Discount 1¼ per cent. on 60 days time.

No.	℔ doz.
3, black, all bristle, very cheap	1 25
73, wide block, rounding ends, all bristle, well filled, etc	1 50
77, all bristle, black, very full, oval shape, rounded ends, full size, fine finish, an extra brush and cheap	2 00
76, all bristle, black, very full, good size, oval shape.	2 25
71, all bristle, black with white spots, very cheap.	2 50
79, oval, Hollywood back, gray Russ n. bristle	2 65
78, large oval, gray Russian bristle, satinwood b'k.	2 75
252, thick, well filled brush, all black bristle, holly back, cheap	2 75
33, gray bristle, satinwood back	3 00
01, rosewood back, black bristle, white spots, fancy	3 50
2, large size, fancy Russian bristle, and cheap	4 00
325, Porter brush and dauber; 1 each in box	4 00

Stove.

2, black, medium size 1 50
2, extra heavy, mixed 1 75
4, extra heavy, mixed 2 00
41, all bristle, curved up end, with dauber 2 25
5, all bristle, extra English holly back 2 75

Scrub.

10, white, no hdl, double end, 11 inch 1 20
3, no handle, gray, 11 inch, double ends 1 25
1, handled, white, double ends, 12 inch cheap 1 50
4, gray, double end, handled 1 40
45, no handle, grey mixed, well filled, very cheap.. 1 65
79, no handle, oiled tampico, very fine 1 75
20, handled, solid back, white, well filled 1 75
29, handled, gray, white, well filled 2 00
2X, no hdl, gray, well filled, solid bk, extra 1 90
27, same as 2X, with handle 2 00
28, hotel, dbl. end, 11¾ in., extra heavy, full 1 85
58, Smith's, all bristle, paint scrub, double end 2 75
½, rice root, 9¾ in., double end 1 40
7, 10 inch double end 1 60
5, rice root; 10¾ in., double end, good 2 00

Whitewash.

Empire—Brass bound, white outside, mixed.

No. 89, 6 in 2 25
No. 90, 7 in 3 00
No. 91, 8 in 4 00
No. 92, 9 in 5 00

Imperial, Brass Bound, all white, long bristles.

No 81, 6 in 3 50
" 82, 7 in 5 00
No. 83, 8 in 7 50
" 84, 0 in 9 00

Horse.

101, wood back, gray mixed, white outside 1 75
104, gray center, bristle outside, fancy back 2 50
14, rice root, from Italian root, very cheap 2 75
120, wood back, fancy 3 25
550, leather back, good and cheap 4 50
500, leather back, extra black bristles 5 50
555, leather back, extra white bristles 6 50
495, extra fine Russian bristles, leather back 8 00

Hair.

¼ doz in box ℔ doz.
12, Tampico filled, 2½ x 5¾, oval, veneered back 1 25
16, black Tampico inside, white bristles outside, 2½ x 5, oval, bevel walnut and whitewood b'k. 2 00
18, bristles and Tampico mixed, 3 x 5¾, oval, full veneered walnut back 2 25
20, fine black Tampico inside, and white bristles outside, 2½ x 5, oval, heavy maple back 2 25
22, finest black Tampico inside, and white bristles outside, 2 x 5, oval, black-walnut back, ornamental figure 2 50
28, Russian bristles, 3¼ x 5, oval, heavy black-walnut back 3 25
36, all white bristles, 1¾ x 4¾, square, French veneered walnut back 5 00
48, white and black bristles, 2 x 5, square, French veneered walnut back 5 50
58, all black bristles, extra good, 3¼ x 5¾, oval solid black walnut back, cheap qt 6 00

8

Clothes.

3½, all white bristle, soft, 2¾ x 7⅜, square, cherry wood back 2 50
5, black Tampico inside and white bristles outside, im. French veneered, 2¾x9, oval 2 50
15, all black bristles, beechwood, grooved back square, 2¾ x 8⅛ 3 00
25, all bristles, white and black, 2¾ x 8⅛, oval, swell ends 3 50
20, All black horse hair, 2¾ x 9, oval, cherry-wood, swell back 3 50

Counter.

COMMON.	℔ doz.	EXTRA.	ds.
All black bristles,		All bris., wht, outside,	
No. 1, 7-inch back	2 75	No. 1, 7-inch back	3 50
2, 8-inch "	3 25	2, 8-inch "	4 40
3, 9-inch "	4 00	3, 9-inch "	5 50

Feather Dusters

Ostrich.	℔ doz.	Turkey.	℔ doz.
No. 5, 5-in. feathers.	1 20	No. 9, pat. split, 9-in.	2 65
6, 6-in. "	2 00	10, " 10-in.	3 40
7, 7-in. "	3 00	11, " 11-in.	4 00
8, 8-in. "	4 25	12, " 12-in.	4 80
9, 9-in. "	6 50	13, "	5 60
10, 10-in. "	8 75	14, "	6 25
11, 11-in. "	10 75	15, "	6 75
12	12 00		
13	14 00		
14	16 00		

BUTTER COLOR.—60 days, etc.

Wells, Richardson & Co.'s, small, per doz 1 88

BUTTER DISHES—60 days, etc.

Price per thousand. No.	1.	2.	3.	4.	5.
Paper, wh. T'nd, pkgs. of 200	1 50	....	2 20	....	....
Wood, square, pkgs. of 100	1 10	1 25	1 45	....	1 65
" oval pkgs of 250	1 40	1 65	1 90	....	2 10

CANDLES—60 days, etc.

Star, full weight, 8's 10½
" short weight, 8's, 14 oz 9½
Adamantine mn'g, 40 sets, of 6 cand's ea. 14 oz 9½
Parafine Wax, best grade 4's and 6's in 6-lb cartoons, 36-lb cases, ivy the case 14
Parafine Tiger braid, little yellowish in color 13

CAPS—60 days, etc.

G. D. full count 32
Hick's W. P., F. L .. 40
Hick's Center Fire., W. Pr 32
Musket 33
Ely's W.P. No. 10 to 13 60

CARTRIDGES—30 days, etc.

No. 1, 22-100 ..... per M, Short, 2 15; Long 2 60
No. 1, 32-100 ..... " Short 4 30, Long 4 90

CIDER—30 days, etc.

Barrett's Clarified.

Casks, 45 gallons, per gal 26
Barrel, 32 gallons, per bbl 8 50
½ Barrels, 16 gallons, per ½ bbl 3 25

New Sweet.

Casks of 45 gal., per gal 14
Barrels 4 50
Half-barrel 2 85

Barrett's Champaign Cider.

Quarts, 1 doz. in Case, per Case $1.80
Quarts, 4 doz. in Barrels, per Barrel 6.00
Pints, 2 doz. in Case, per Case 2.00

CHICORY—60 days, etc.

In original cases, ¼ cent o .

Imported Blue, 5 to lb, Eagle 5
" red, " Franck 5½
" yellow, 5 to lb., Seitz's 6½
Granulated, English bulk 7½

COFFEE ROASTERS—Hyde's—60 days.

No. 1, capacity 20 to 30 pounds ..... each 35 00
" 2, " 30 to 60 " ..... " 40 00
" 3, " 75 to 125 " ..... " 95 00

A pulley furnished, if desired, for steam power.

COFFEE MILL—Parker's Box—60 days.

	per doz.
No. 300, Bronzed, Covered Hopper, Small Size	6 75
" 301, " " " Med'm "	7 75
" 108, Eagle, Britannia	8 50
" 104, " Iron	4 80
" 44, Tucker's Iron Hopper, very cheap	3 00
" " " large	4 00

COFFEE ESSENCE—60 days, etc.

Price per gross.	Thos.	Foll.	Paper
Hummel's, J. S. & Co	2 20	1 20	1 15
I C Tomson's, ½ gross boxes	2 45	1 40	....
Hummel's, 1 lb papers 100 lb bxs per lb			5½

CRACKERS.

Special discount 1 per cent on 30 days time.
No charge for packages.
Bremner's or Farnum's.

Specify the *grade wanted* or the best will be sent.

Butter, Williams Tea .. 6½
" X 5
" XXX 5½
" Michigan 5½
" Wafer 5½
" Eureka 6½
" Chicago 7
" Kenosha 7
" "T" 7½
" Family, Boston .. 7
" Large Boston .. 8
Oyster, Pic-Nic, X 5
" Pearl 5
" Button 5½
" XXX 5½
" Challenge 6
" Bremner'sbest .. 6½
" Sea Foam 7
Soda, X 5
" XXX 5½
" Select 6½
" Double Extra .. 7½
" Cream 8½
Farina X 5
Fancy, Alphabet 11½
" Animals 11½
" Numerals 11½
Cracker Meal 5½
Abernethy Biscuit 8½
Biscuit, Cracknells 15½
Biscuit, Cream, XXX .. 8
" Cream, frosted .. 8
" Cream, Lemon .. 8
" Water 8
" Graham 7½
" Oatmeal 7½
" Sugar, X 7½
" Sugar, XXX .. 8½
Milk, XXX 7½
Pilot Bread 5½
Hard Tack 5½
Pretzels, hand made .. 11½
Nicknacks 9½
Coffee Cake, Ess. ginger .. 9½
Grandma's Ginger Brd 9
Snaps, Ginger 7½
Snaps, Ginger, XXX .. 8½
" Lemon, XXX .. 12½
Lady Fingers 11½
Assorted Cakes 12½
Iced Honey 12½
Jumbles, Spice & Ging .. 10½
Jumbles, Assorted 11½
Jumbles, Honey 13
Jumbles, Strawberry .. 11½
Wafers, Almond 13½
" Cocoanut 13½
" Vanilla 13½
" Lemon 13½

Paper Boxes cost ½c over these List Prices.

CANDY JARS—60 days, etc.

One dozen in case, no charge for case.

	½ gal.	¼ gal.	1 gal.
Plain Squat	1 80	2 00	2 50
Ring Tall	3 60	4 50	

(Schedule 4)

Defendants Exhibit A1
Jhill. Gray Notary Public

TRADE MARK

THE
TYCOON
TEA

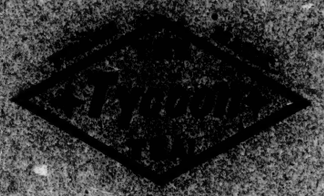
Exhibit-K
Deposition of C. R. Corbin

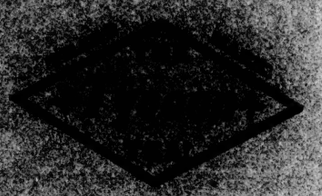
IC&M

No C

CHOICEST
GARDEN PICKINGS
SPRING LEAF
JAPAN TEA

THE TYCOON TEA!





THE ORIGINAL

Pan-Fired Uncolored Japan Tea.

The Purest and Best Japan Tea that comes to this Country.

IMPORTED AND INTRODUCED BY US IN 1872.

Sales rapidly increasing from 1,000 packages the first season to many thousand packages per annum at the present time,—exclusively to the retail trade.

The Tycoon Tea stands foremost for Purity and Intrinsic Merit—Consumers recognize that fact.

All other teas claimed to be "the same" are but Imitations, inferior as to purity and quality—some are "vile stuff."

No House West or East is able to compete with C., M. & CO. in variety of grades, quality or prices.

Claims to the Tycoon Brand by Others than C., M. & CO. are Fraudulent.

IT IS THE LEADING JAPAN TEA OF THIS COUNTRY.

THE REASONS ARE OBVIOUS, SOME OF THEM ARE AS FOLLOWS:

The people are tired of adulterations, and demand pure teas.

Colored teas are a rank absurdity—an injustice and an injury to consumers.

When properly introduced, the Pan-Fired Uncolored tea never fails to sell rapidly, and creates a permanent demand.

Aside from Purity, the **QUALITY** is decidedly better than other Japan teas at the same price.

Basket-Fired Japans are made by a different process, are very *irregular* in quality, and unsuited to the popular taste.

Seven years of experience have carried the original importers beyond the experimental stage, and enable them to warrant superior preparation and quality. "Sun-dried" is not the "same thing."

The "Tycoon" teas are selected from the best of the crop, thoroughly prepared, and we do not hesitate to *guarantee* a large increase in sales when reasonably advertised.

NOW IS THE TIME TO COMMENCE with a strictly pure Natural-Leaf tea. Take five packages, with the 500 circulars, under our guarantee of quick sale, and test its merits. Your customers will appreciate the change, you will desire to keep no other Japan Tea, and arrangements can then be made with the importers for a permanent supply of all desired grades, at inside market prices. It is a plain, common-sense matter and should require no special urging.

Corbin, May & Co.

CALVIN E. CORBIN *et al.*
vs.
WALTER J. GOULD *et al.*

No. 131.
P. 220.

A. D. 1856 ..Jan 23. N° 185
NORRIS' SPECIFICATION.

(9 SHEETS.)
SHEET 1.

FIG. 1

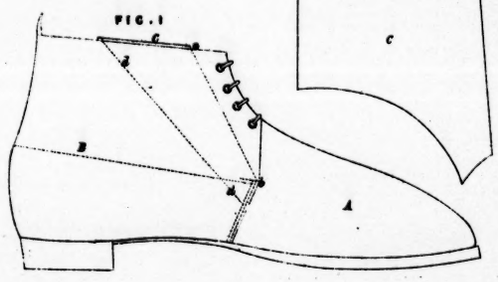


FIG. 2

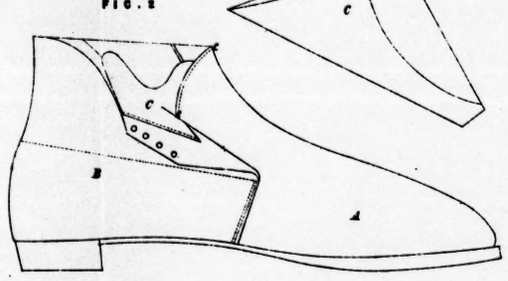


FIG. 3

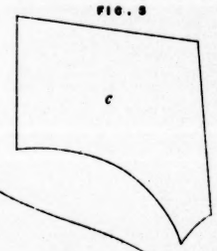


FIG. 4

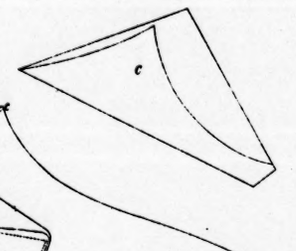


FIG. 7

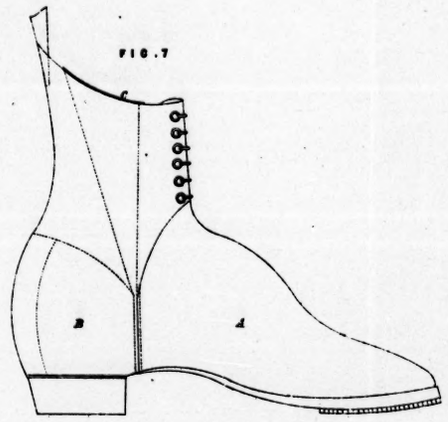


FIG. 8

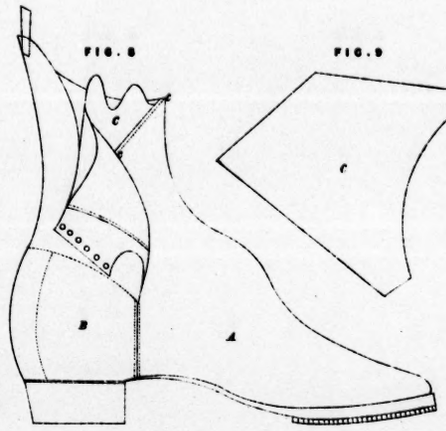


FIG. 9

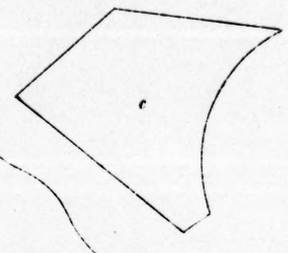


FIG. 15

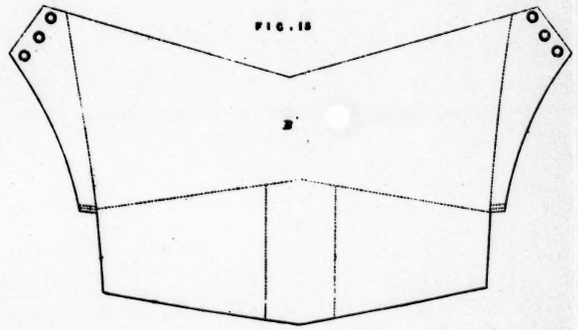


FIG. 16

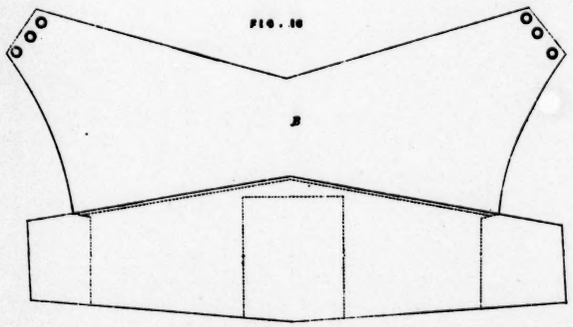


FIG. 6

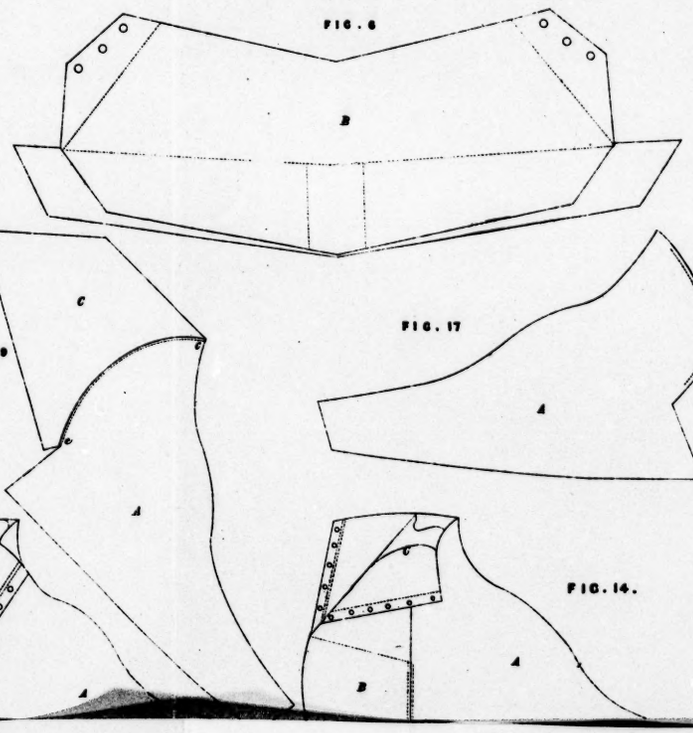


FIG. 17

FIG. 12

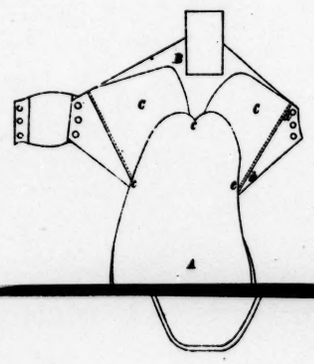


FIG. 5

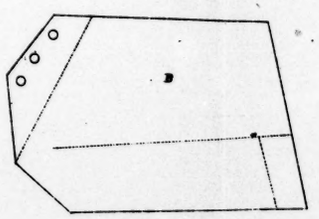


FIG. 18

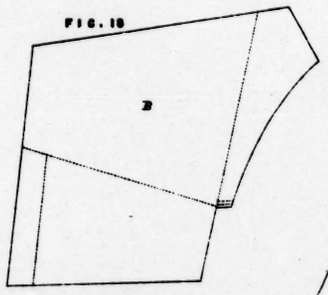


FIG. 19

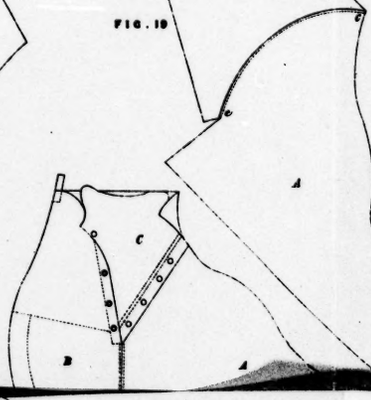
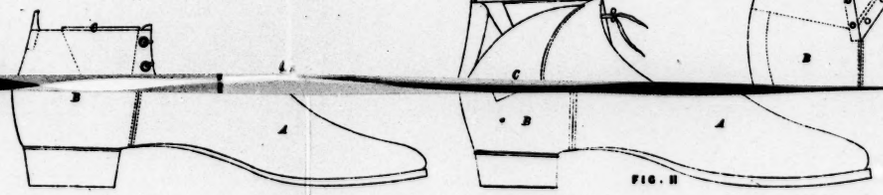


FIG. 14.

FIG. 11



The filled drawing is not colored.

Drawn on Stone by Mosley & Sons.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1856.

A.D. 1860. Aug. 13. N° 1954.
NORRIS & ROGERS' Specification.

(1 SHEET)

FIG. 1.

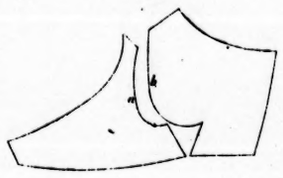


FIG. 2.

FIG. 3.

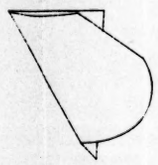


FIG. 4.

FIG. 5.

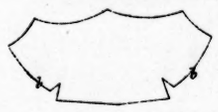


FIG. 6.

FIG. 7.

FIG. 8.

FIG. 9.

FIG. 10.

FIG. 11.

FIG. 12.

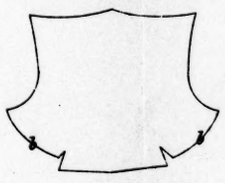


FIG. 13.

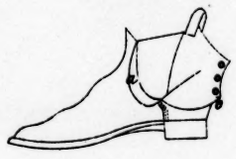


FIG. 14.

FIG. 14A.

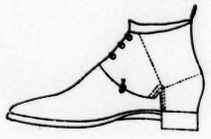


FIG. 15.

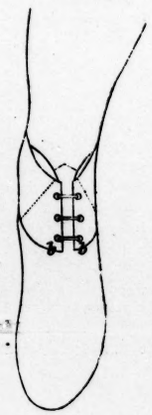


FIG. 16.

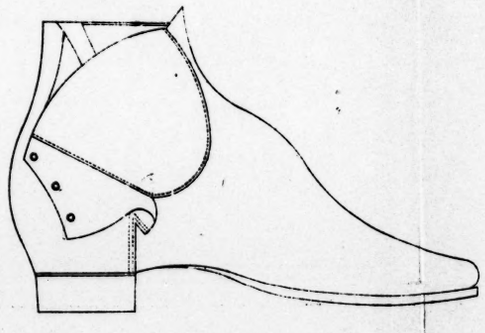


FIG. 17.

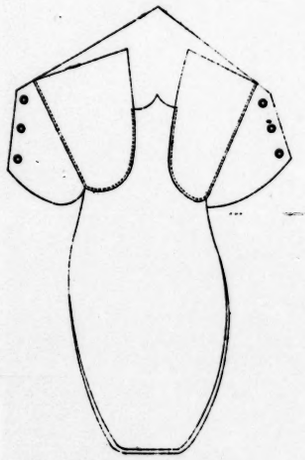


FIG. 18.

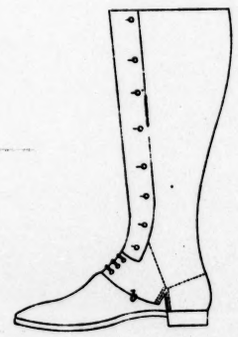


FIG. 19.

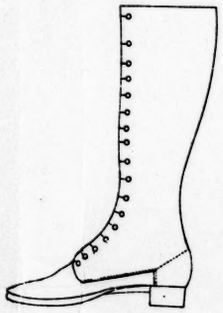
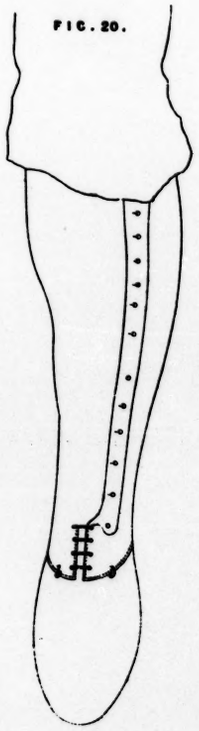


FIG. 20.

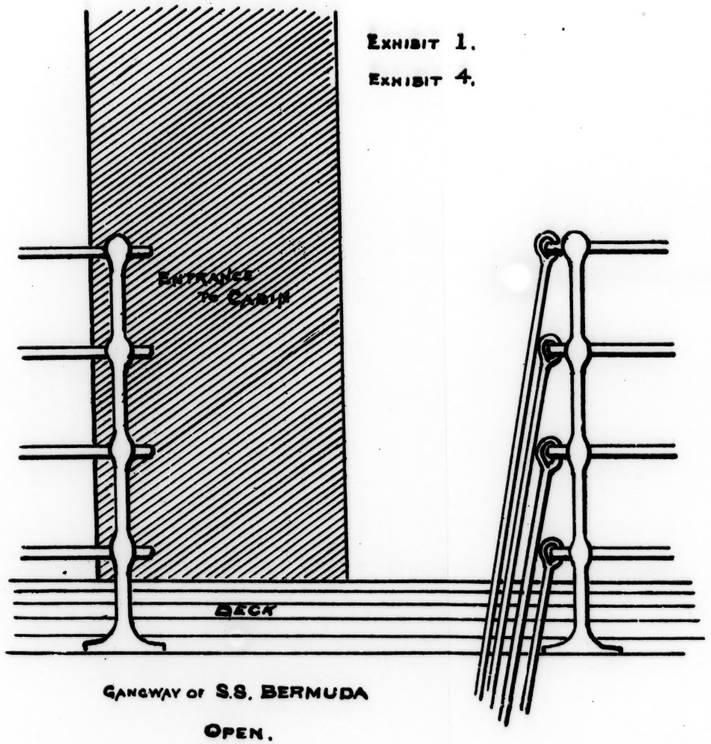


The filed drawing is not colored..

London: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1861

The Quebec Steamship Company
vs.
Barbara Merchant
No. 264.

Exhibit 1.
Exhibit 4.



Gangway of S.S. BERMUDA
Open.

Exhibit 2.

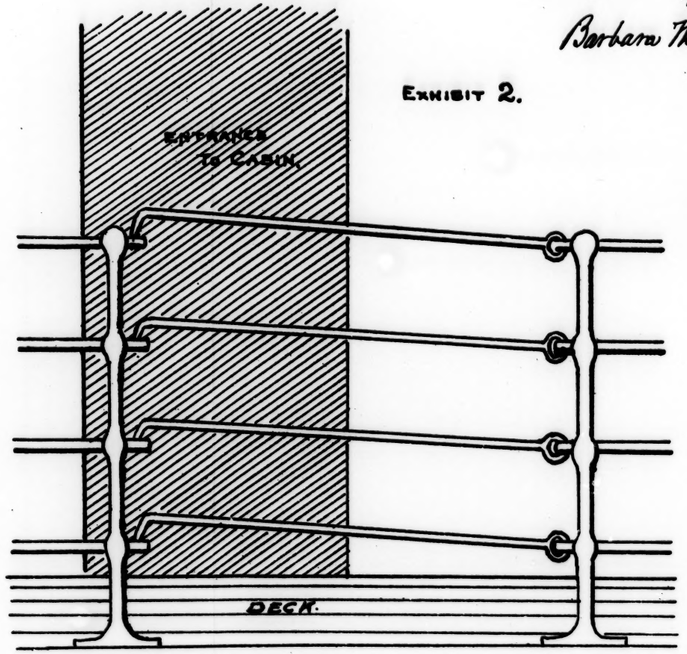
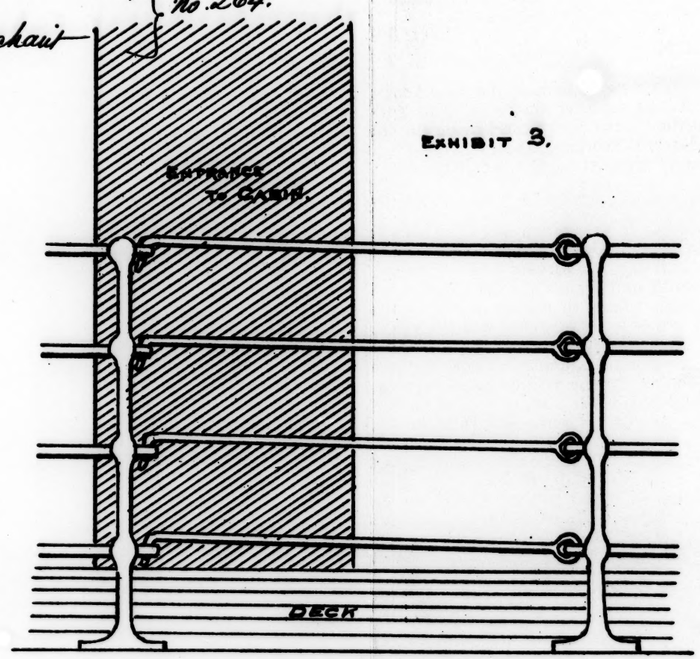


Exhibit 3.



Gangway of S.S. BERMUDA
Closed

1443
No. 681
The Montgomeria Gutta Percha Co. Ltd.
Patent Crucible Steel
} per Sail

Limit

Limit

Limit

No. 363
P.R. Miss. Rail Road Co.
Portage City
Wisconsin
Portage and Superior
Rail Road Co.

State of Wisconsin
Office of the Secretary of State

Madison Nov. 10th 1869.

The within statement of the Portage
and Superior Rail Road Co. of the Portage
City Branch of the Portage Winnebago
and Superior Rail Road Co. of the
Portage City Branch of the Portage
Winnebago and Superior Rail Road Co.
of the State of Wisconsin, and the
Portage and Superior Rail Road Co.
of the State of Wisconsin, was filed
in this office on the 10th day of
November A.D. 1869 at 9 o'clock A.M.

Seal

Thos. L. Allen
Secretary of State.

Office of the Portage Winnebago and Superior
Rail Road Company Wisconsin
October 7th 1869.

It is hereby certified that in pursuance of the Act of Congress approved May 5th 1864 entitled "An Act granting Lands to aid in the construction of a Railroad and Telegraph line from the State of Wisconsin to Minnesota and a grant of land to the State of Wisconsin to aid in the construction of a Railroad from Portage City to Bayfield, Dakota Land, or Grant &c. &c." and of said State May 5th 1864 for the purpose of aiding in the construction of a Rail Road from Portage city, Bayfield, Dakota Land, or Grant &c. &c. and of said State May determines, in a work Meetan directors, to Bayfield and thence to Superior on Lake Superior and the act or resolution of June 21. 1866 amendatory thereof authorizing the Construction of said Railroad from said City of Portage by the way of Rippy, in the County of Stevens Lake to Stevens Point Grant &c. &c. and the City of Berlin in the County of Waupaca Lake to Stevens Point and thence to Bayfield and to Superior on Lake Superior, and of the several acts of the legislature of the State of Wisconsin one incorporating the Winnebago and Lake Superior Rail Road Company approved April 6th 1866 and one incorporating the Portage and Superior Rail Road Company approved April 9th 1866. and one granting the two said Companies consolidated under the name of the Portage, Winnebago and Superior Rail Road Company; and of Articles of Consolidation by said two said Companies duly executed and filed in the office of Secretary of State this State of Wisconsin on the 24th day of May 1866 under and by virtue of which the said Portage, Winnebago and Superior Railroad Company was duly organized, and became entitled to and invested with the title to the lands, and all and singular the rights, liberties and immunities, grants or Confirmed or intended to be granted, or Confirmed by Section Three of the aforementioned Act of Congress and the said amendatory thereof and to construct and make Rail Road from the said City of Portage City thereof as aforesaid to Superior on Lake Superior, to Stevens Point and thence to the City of Rippy and the said City of Berlin, to Stevens Point and thence to Bayfield and to Superior on Lake Superior, the Map shewing the location of that portion of the line or route of the said Rail Road from the said Stevens Point to Bayfield being that part of the line or route of said Rail Roads as definitely fixed, in Compliance with the said Acts of Congress and of the Legislature of the State of Wisconsin and in pursuance of the resolutions of the Board of Directors of said Company passed on the 27 second day of June 1869 and the 22 day of September 1869, and that the date of the field Work thereof are truly indicated along the lines from stations to stations, upon this Map.

In testimony Whereof the said Rail Road Company has caused the same to be signed by its President and Engineer, and has attached hereto its Corporate seal at Milwaukee on the day and year first above written.

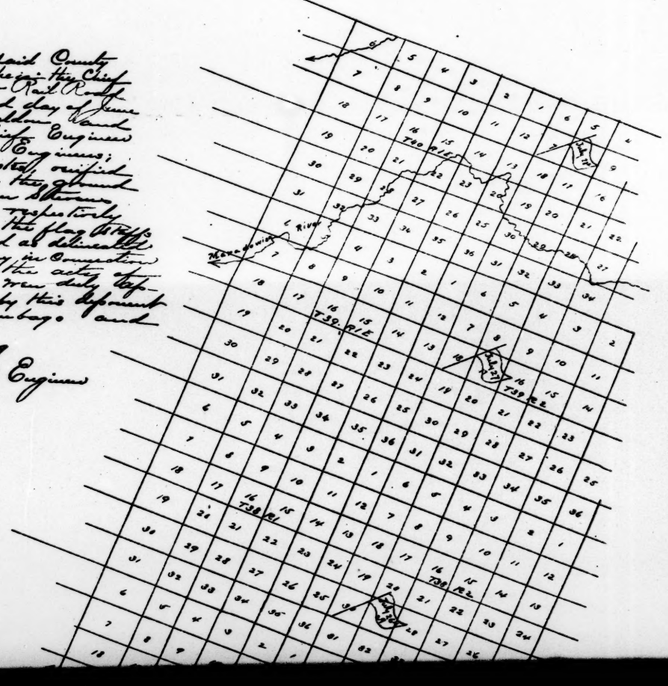
Geo. Reed President.
S.W. Budlong, Chief Engineer.

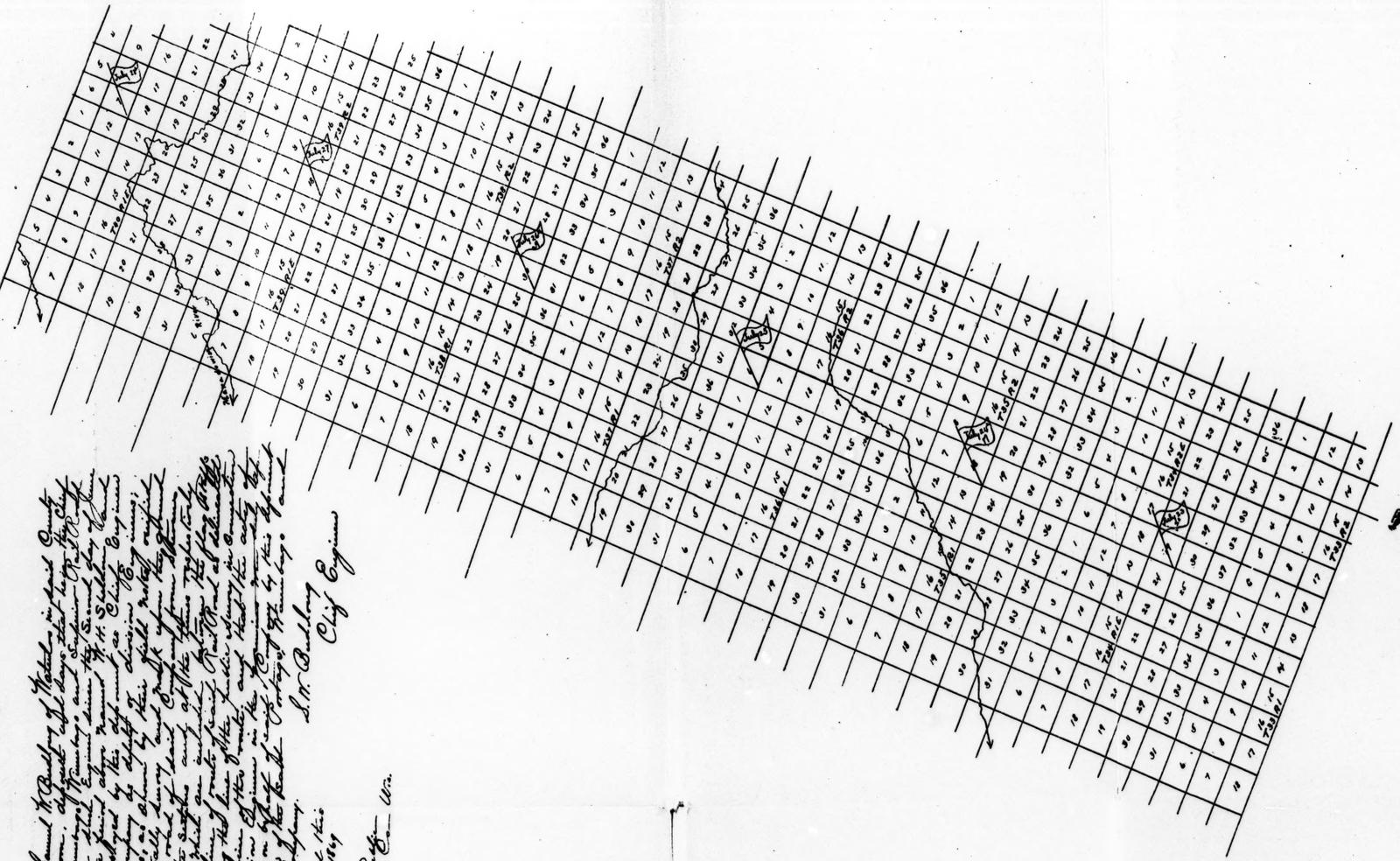
Attest.
Seal
Curtis Reed, Secretary

State of Wisconsin
County of Jefferson } Samuel W. Budlong of Watertown in said County and State being duly sworn, deposeth and says that he is the Chief Engineer of the Portage, Winnebago and Superior Rail Road Company and has been such Engineer since the Second day of June A.D. 1869, that during the period above named W.H. Sidell was employed by this deponent as Chief Engineer of said Rail Road Company by deponent's division Engineers; that the said Engineers, as shown by their field notes certified under oath, did actually survey and Establish upon the ground the line or route of the road of said Company from Stevens Point to Bayfield in the sections and at the times respectively designated by dates which are entered opposite the Stations upon the profile and along the line of route of said Rail Road as delineated on this Map, shewing the line of the location of said Rail Road as definitely fixed with the Meanders line of the Counties of that the said profile shewn in connection said deputy or Division Engineers in the Counties were duly employed and acted on behalf of said Company by this deponent as said Chief Engineer of the said Portage, Winnebago and Superior Rail Road Company.

S.W. Budlong
Chief Engineer

Sworn and subscribed this 12th day of October A.D. 1869 before me.
S.W. Curtis Notary Public Jefferson Co. Wis.
Seal





LINE OF SURVEY
of the
PORTAGE, WINNEBAGO AND SUPERIOR RAILROAD
from
STEVENS' POINT TO BAYFIELD
Made June, July and August 1869

Samuel W. Budlong
Chief Engineer

Attested hereto its Corporate seal at Minnesota on the day and year first above written.

Geo. Reed President
S.W. Budlong, Chief Engineer

Attest: Seal

Curtis Reed, Secretary

State of Wisconsin
County of Jefferson } Samuel W. Budlong of Waterloo in said County and State being duly sworn, deposed and says that he was the Chief Engineer of the Portage, Winnebago and Superior Railroad Company and has been said Engineer since the second day of June A.D. 1869 that during the period above named W.H. Shelley D.P. Pl. Reed was employed by this deponent as Chief Engineer for said Railroad Company as deputy of division of Engineers; that the said Engineer, as shown by their field notes, verified under oath, did actually survey and mark upon the ground the line of route of the road of said Company from Stevens Point to Bayfield in the section and at the time of the date being designated by date which are included before the Chief Engineer of the road, along the line of route of said Railroad as delineated upon this map, showing the line of the Public Survey in Connection with the Line of Route of the Portage, Winnebago and Superior Railroad Company.

S.W. Budlong
Chief Engineer

Sworn and Subscribed this 12th day of October A.D. 1869 before me.

S.M. Conn Notary Public
Jefferson Co. Wis.

Seal

January 20 5th
W. A. Haven

State of Wisconsin } ss.
County of Portage. }

W. A. Haven.

of Stevens-Point, in said county and State of Wisconsin being duly sworn, deposeth and says that he is the Chief Engineer of the said railroad, from Sta. 4797+25 to Sta. 5250+65 being for the fifth section of twenty (20) miles as shown by the line of route in connection with the lines of the public surveys on this map: that it has been completed and equipped as required by law, and that this line of route shows the correct location of the said railroad.

W. A. Haven [Seal]
Chief Engineer.

Sworn and subscribed this 2nd day of January 1874 before me

[illegible]
Notary Public

Seal

It is hereby certified that W. A. Haven is Chief Engineer of the said Railroad and that the location of the road as represented on this map is correct and approved by the company, and also that the said portion of the said road has been completed and equipped in all respects as required by law.

[illegible] President.

Subscribed sworn to before me this 5 Jany 1874

J. C. Hopkins
W. S. Dist Jnf

343
No. 5[illegible]
The Wisconsin Central R.R. Co. } f. 573
v.
Price Co. et al.

Wisconsin Central Railroad

Middle Division.

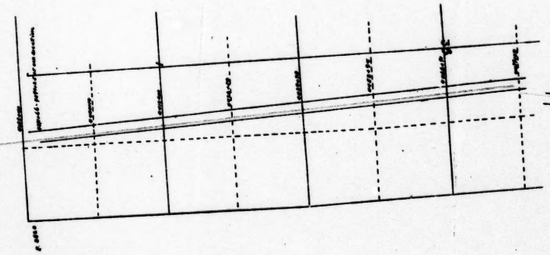
Map showing the 5th Section of completed

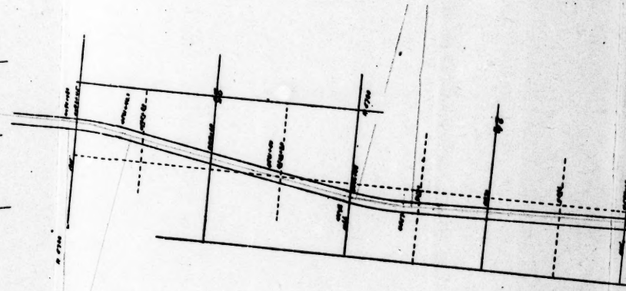
Road

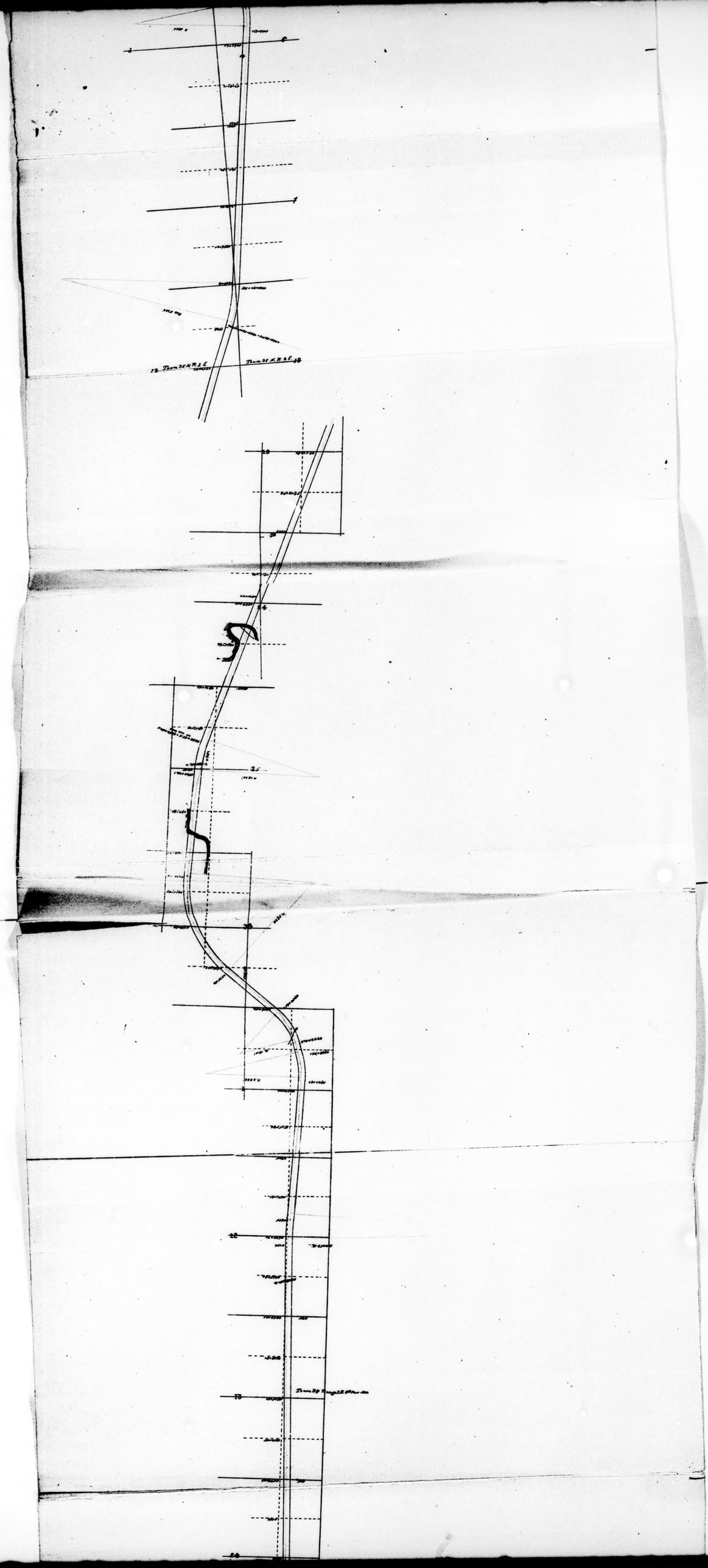
from Sta. 4197.25 to Sta. 5250.65

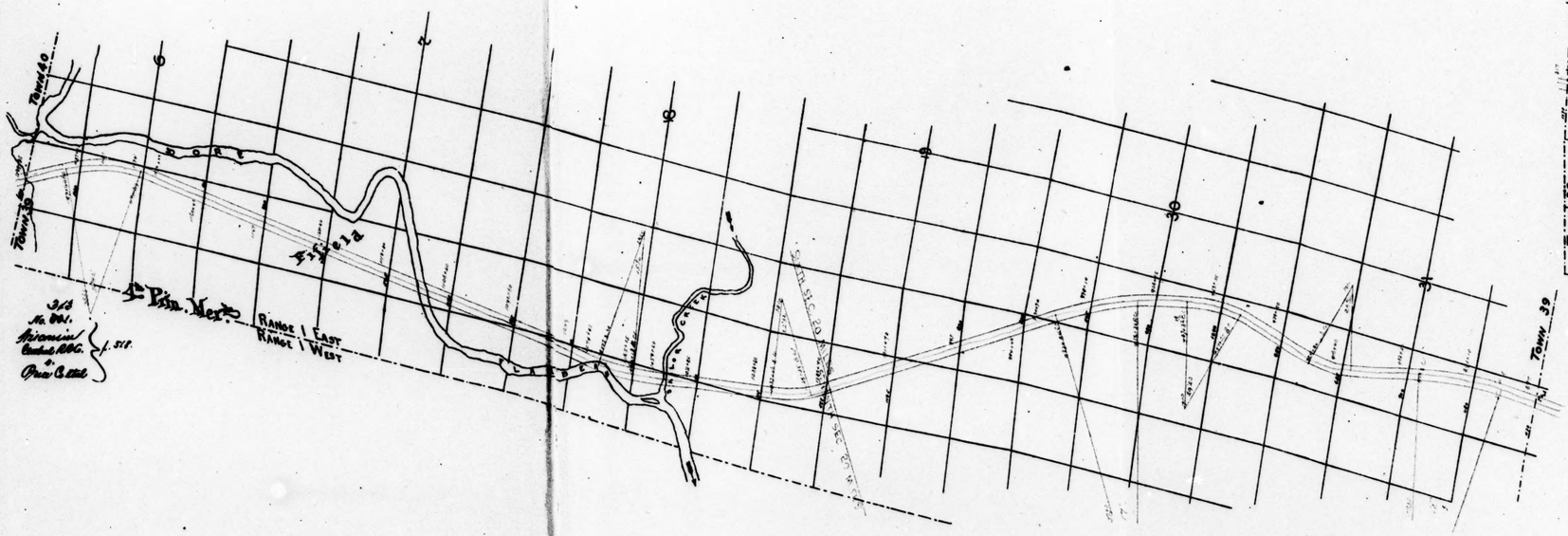
Scale 800' = 1 inch

Chas. A. Van Dorke
Demonstrator.

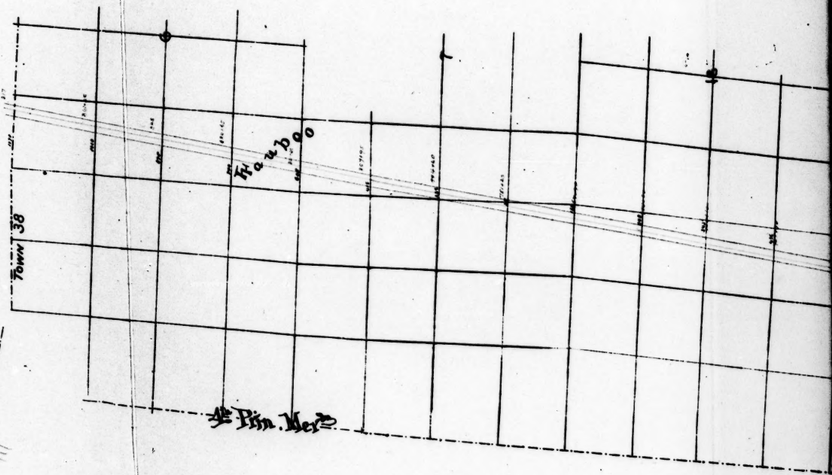




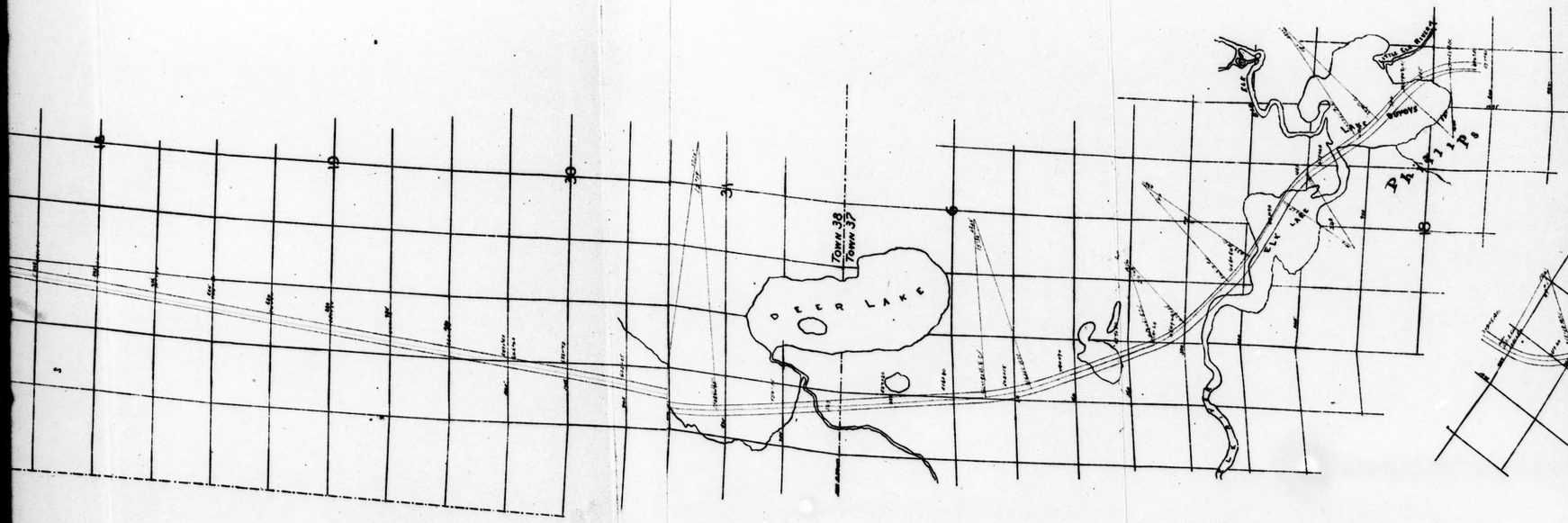




TOWN 40
TOWN 39
Fifield
4th Prin. Mer.
RANGE 1 EAST
RANGE 1 WEST



TOWN 38
Rhubbo
4th Prin. Mer.



Map of Located Line
Wisconsin Central R.R.
SEC. 101 M&O 13-736 R. 11 E. — FIFIELD — M&O 13-739 R. 11 E.

Beginning at the point of intersection of the Northerly line of Township 36 North of Range 11 East of the Fourth Principal Meridian with the Westerly line of the right of way of the Wisconsin Central Railroad Company, as the same is now located and established, which point of beginning is distant 1320 feet Westerly from the Northeast corner of Section 1 in said Township 36 North of Range 11 East of the Fourth Principal Meridian, and running thence Southerly on a curve to the right, the radius of which is 1910 feet, a distance of 1320 feet to the point of intersection of said curve with the Southerly line of the North half of the Northeast quarter of said Section 1, which point is distant 1320 feet Westerly from the Southeast corner of the North half of the Northeast quarter of said Section 1, and the end of said line.

Walworth Co. Wis.
Filed for record in the office of the Register of Deeds of Walworth County, Wisconsin, this 4th day of November A.D. 1874 at 9 o'clock A.M.
Chas. H. Worth
Register of Deeds

Seal

Walworth Co. Wis.
I hereby certify that the within map of the Located Line of the Wisconsin Central Railroad Company, as the same is now located and established, and which is distant 1320 feet Westerly from the Northeast corner of Section 1 in Township 36 North of Range 11 East of the Fourth Principal Meridian, and which is distant 1320 feet Westerly from the Southeast corner of the North half of the Northeast quarter of said Section 1, and the end of said line, is a true and correct copy of the original map of said line on file in my office.
Given under my hand and official seal this 4th day of November A.D. 1874.
Edwin H. Abbott
Secretary of the Wis. Cent. R. R. Company

Seal

Seal

Walworth H. Rich
Chief Engr.

Geo. Bell
Pres. of the Wisconsin Central R.R. Co.

28

29

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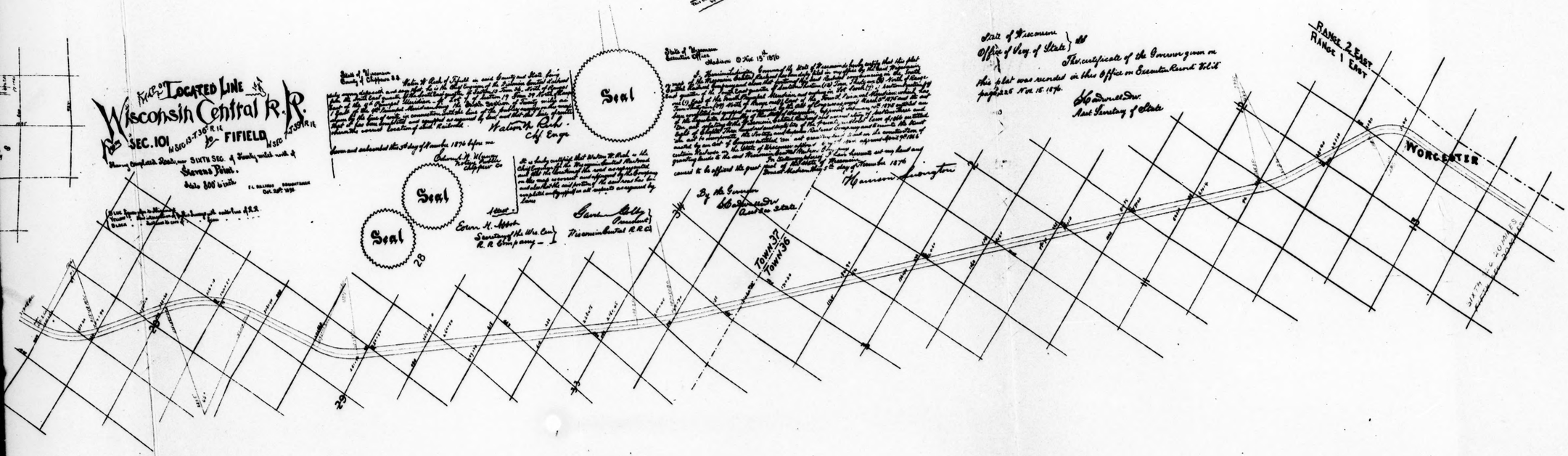

Wisconsin Central R.R.
SEC. 101
FIFIELD
Seal
Seal
Seal
Seal
Harrison Livingston
Town 37
Town 36
Range 2 East
Range 1 East
Worcester
28
29
34
33

Copy made & Photo'd 1936 Commission

Received by Express at the Gen'l Land Office, May 24, 1877, etc. Letter N° 12,547 from Chief Clerk Gen'l Land Office of Secretary of Int. May 23, 1877

343
No. 821.
Wisconsin Central R.R. Co.
to
Price Co. Wis.
} #522

State of Wisconsin } ss
County of Ashland }

Walter H. Rich of Ashland in said County of Ashland being duly sworn deposes and says that he is the Chief Engineer of the Wisconsin Central Railroad from Lot seven (7) in section Nineteen (19) Township Forty Nine (49) North of Range one (1) east of the Northwest quarter of the southeast quarter of Section Twenty Ten (24) Township Forty Ten (84) North of Range Two (2) West being the Seventh Section of Twenty Miles West from Stevens Point and six miles Eastern the Northern terminus of said Seventh Section, and the Southern terminus of the Eighth Section (or Second section south from Ashland) as shown by the lines of yards in connection with the Public Surveys on this map that it has been completed and equipped as required by Law and that the lines of road shown thereon are location of said Railroad.

Walter H. Rich
Chief Engineer

Sworn to and subscribed before me this 9th day of August A.D. 1877

Charles H. Pratt
Notary Public

Seal

Seal

MAP OF PART OF THE COMPLETED LINE OF THE
WISCONSIN CENTRAL RAILROAD
FROM
SEC. 30. T. 39 N. R. 1 E. TO SEC. 15. T. 43 N. R. 2 W.

The Wyoming Railroad R.R. from North Line of Sixth Sec. 5 20 miles North from Steven's Point
South Line of Second Sec. South from Ashland

SCALE 800 FT. TO 1 INCH.

Wisconsin Central R.R. Offices
Milwaukee, Wis. Aug. 15 1877

I do hereby certify that the Map of Road on the line of Railroad and the location of the Line as represented on this map is correct and approved by the Company and also that the said portion of the said Road has been completed and equipped in all respects as required by Law

Chas. H. Seeley
President Wis. Cen. R.R. Company

attest Edwin H. Abbot
Secy Wis. Cen. R.R. Co.

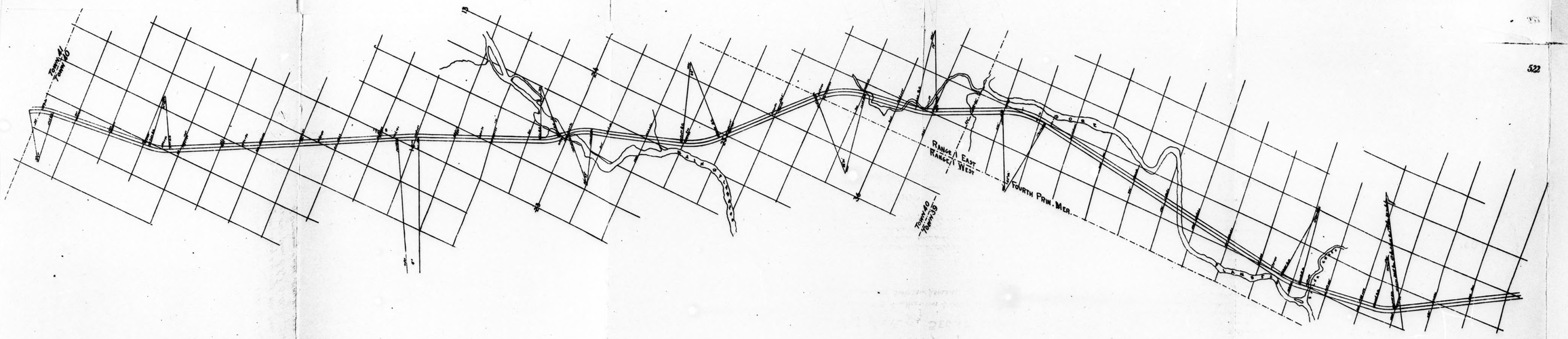
State of Wisconsin }
Executive Office }

I Harrison Ludington Governor of the State of Wisconsin do hereby certify that this plat or map of the Wisconsin Central Railroad has been duly filed in my office by the Wisconsin Central Railroad Company and shows that portion of the said Railroad commencing at the south section (7) Section Nineteen (19) Township Thirty nine (39) North of Range one (1) East of the 4th Principal Meridian and ending in the Northwest Quarter of the Southeast Quarter of Section Twenty Ten (24) Township Forty Four (84) North of Range Two (2) West of the 4th Principal Meridian which Railroad completed and equipped as required by the act of Congress approved March 3d 1871 and by the Legislature duly of the State of Wisconsin approved February 9th 1872 entitled "an act to aid in the construction of the Wisconsin Central Railroad" and an act entitled "an act to incorporate the Wyoming & Superior Railroad Company" passed March 4th 1874 and by the act of Congress entitled "an act granting lands to the Wisconsin Central Railroad" and an act entitled "an act granting lands to aid in the construction of certain railroads in the State of Wisconsin" approved June 22d 1874 Adjoining lands to the said Wisconsin Central Railroad Company

In Testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Wisconsin done at Madison this 22nd day of August A.D. 1876

By the Governor
S. Ewinbutler, asst Secy of State

Harrison Ludington Governor

Seal

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